

ACTS
OF THE
FORTY-SIXTH
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION
1943



ENCLOSURE

FOREWORD

This volume includes all the Acts and Resolutions of the 1943 Regular Session of the Forty-Sixth West Virginia Legislature, all Senate and House Concurrent Resolutions adopted, and all Senate and House Resolutions adopted by the respective bodies.

During the sixty-day session, which convened on January 13, 1943, and adjourned March 13, 1943, there was a total of 619 bills introduced in the two legislative bodies. There were 239 Senate Bills and 380 House Bills. The Legislature passed and sent to the Governor 52 Senate Bills and 72 House Bills.

Fourteen bills were vetoed by the Governor. These were S. B. No. 22, Executive Appointments Requiring Senate Confirmation; S. B. No. 170, Reduction of Privilege, and Business and Occupation Taxes; S. B. No. 205, Orders for General Relief; S. B. No. 212, Qualifications of Judges; H. B. No. 1, Naming of "Acting" Officer by Elective State Official Upon Entry of Such Official Into Military Service; H. B. No. 2, Repeal of Personal Income Tax Law; H. B. No. 30, Adoption; H. B. No. 70, Creating West Virginia State Bar; H. B. No. 112, Assessment of Public Service Corporations for Tax Purposes; H. B. No. 116, Board of Governors for Industrial School for Boys; H. B. No. 225, Relinquishment of Child to Child Welfare Agency; H. B. No. 238, Sentences of Imprisonment for Felony; H. B. No. 286, Licensing Board for Child Welfare Agencies; and H. B. No. 319, Payment of Unpaid University Stadium Bonds.

Senate Bills Nos. 22 and 170, and House Bills Nos. 1, 2, 30 and 112 were passed by both Houses, notwithstanding the veto of the Governor. The other bills named were vetoed after adjournment of the session. Of the 116 new laws enacted, 50 were Senate Bills and 66 House Bills.

There were 3 Senate Joint, 6 Senate Concurrent and 22 Senate Resolutions offered, of which 2 Senate Concurrent and 21 Senate Resolutions were adopted. Three House Joint, 32 House Concurrent and 35 House Resolutions were offered, of which 17 House Concurrent and 29 House Resolutions were adopted.

Advance copies of the Acts of this session were distributed as authorized by House Resolution No. 32. No provision is made for free distribution of this volume, except one copy to each member of the Legislature. This volume may be purchased from the Supervisor of Printing in the State Department of Purchases at \$2.00 per copy.

J. R. ALIFF, Clerk,
House of Delegates.



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‡ The Supreme Court of Appeals has held that so much of this chapter as provides that no person whose nomination to an office by the Governor has been rejected by the Senate "shall be appointed, during the recess of the Senate in which his nomination was rejected, to any other office the nomination for which must be submitted to the Senate for confirmation", is unconstitutional. State ex rel William W. Downey v. Edgar B. Sims, Auditor, etc.

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LEGISLATURE OF WEST VIRGINIA

MEMBERS, OFFICERS AND STANDING COMMITTEES

REGULAR SESSION, 1943

SENATE OFFICERS

President—JAMES PAULL, Wellsburg
President Pro Tempore—DAN B. FLEMING, St. Marys
†Clerk—FRED B. WATKINS, Fairmont
Sergeant-at-Arms—FRED WOLFE, Ripley
Doorkeeper—W. C. COOPER, Webster Springs

District	Name	Address
First.....	*Wm. A. Hannig (R)..... James Paull (D).....	Elm Grove Wellsburg
Second.....	*Theodore M. Bowers (R)..... A. Emerson Doak (R).....	New Martinsville Sistersville
Third.....	*H. S. Boreman (R)..... Dan B. Fleming (D).....	Parkersburg St. Marys
Fourth.....	*R. F. Musgrave (R)..... E. Ray Reed (R).....	Winfield Clay
Fifth.....	C. H. McKown (D)..... *Andrew R. Winters (D).....	Wayne Huntington
Sixth.....	*W. E. Burchett (D)..... William Mitchell (D).....	Williamson Welch
Seventh.....	*Alney M. Hall (D)..... John J. Pelter (D).....	Ramage Logan
Eighth.....	Roy B. Jimison (D)..... *John C. Morrison (R).....	Kayford Charleston
Ninth.....	*O. D. Hall (D)..... †R. D. Bailey (D).....	Beckley Pineville
Tenth.....	*Henry S. Ellison, Sr. (D)..... W. Broughton Johnston (D).....	Union Princeton
Eleventh.....	*John H. Bowling (D)..... Arnold M. Vickers (D).....	W. Sulphur Springs Montgomery
Twelfth.....	Fred C. Allen (D)..... *G. C. Belknap (D).....	Marlinton Sutton
Thirteenth.....	*Hardin R. Harmer (R)..... George Jackson (D).....	Shinnston Jane Lew
Fourteenth.....	*Don J. Eddy (D)..... C. Howard Hardesty (D).....	Morgantown Fairmont
Fifteenth.....	A. L. Helmick (R)..... *G. O. Young (R).....	Thomas Buckhannon
Sixteenth.....	*William P. C. Perry (D)..... George H. Williams (D).....	Charles Town Romney

(D) Democrats.....	22
(R) Republicans.....	10
Total.....	32

(†) Elected March 13, 1943, to succeed A. Hale Watkins, resigned

(*) Hold-over Senators who will be members of the 1945 Legislature

(†) Appointed to fill vacancy caused by resignation of Ward Wylie (D), Mullens

Standing Committees of the Senate

AGRICULTURE

Messrs. Bowling (*Chairman*), Allen, Belknap, Ellison, Perry, Williams, Doak, Harmer and Musgrave.

BANKS AND CORPORATIONS

Messrs. Ellison (*Chairman*), Allen, Belknap, Eddy, Hardesty, McKown, Helmick, Morrison and Young.

CLAIMS AND GRIEVANCES

Messrs. Hall (of Boone), (*Chairman*), Burchett, Jimison, Johnston, McKown, Vickers, Boreman, Bowers and Reed.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Jimison (*Chairman*), Eddy, Hall (of Boone), McKown, Mitchell, Vickers, Boreman, Harmer and Morrison.

EDUCATION

Messrs. Fleming (*Chairman*), Allen, Bailey, Hardesty, McKown, Mitchell, Pelter, Williams, Boreman, Doak and Harmer.

ENROLLED BILLS

Messrs. Jimison (*Chairman*), Eddy, Hall (of Boone), Perry and Bowers.

EXAMINE CLERK'S OFFICE

Messrs. Bowling (*Chairman*), Williams and Harmer.

FEDERAL RELATIONS

Messrs. Winters (*Chairman*), Ellison, Hardesty, Johnston, Pelter, Williams, Harmer, Musgrave and Reed.

FINANCE

Messrs. Allen (*Chairman*), Vickers (*Vice Chairman*), Belknap, Bowling, Ellison, Fleming, Hall (of Raleigh), Hardesty, Mitchell, Pelter, Perry, Williams, Winters, Boreman, Doak, Hannig, Helmick and Young.

FORESTRY AND CONSERVATION

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FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

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INSURANCE

Messrs. Hardesty (*Chairman*), Eddy, Hall (of Boone), Hall (of Raleigh), Johnston, Vickers, Boreman, Morrison and Young.

INTERSTATE COOPERATION

Messrs. Williams (*Chairman*), Hardesty, Johnston, Pelter and Musgrave.

JUDICIARY

Messrs. Johnston (*Chairman*), Williams, (*Vice Chairman*), Vickers, Pelter, McKown, Jimison, Hall (of Boone), Fleming, Eddy, Burchett, Bowling, Belknap, Bailey, Bowers, Harmer, Morrison, Musgrave and Reed.

LABOR

Messrs. Eddy (*Chairman*), Bowling, Hall (of Boone), Jimison, Mitchell, Perry, Doak, Hannig and Young.

MEDICINE AND SANITATION

Messrs. Vickers (*Chairman*), Eddy, Fleming, Hall (of Raleigh), Johnston, Winters, Bowers, Reed and Young.

MILITIA

Messrs. Mitchell (*Chairman*), Jimison, Pelter, Perry, Williams, Winters, Doak, Helmick and Morrison.

MINES AND MINING

Messrs. Belknap (*Chairman*), Bailey, Hardesty, Mitchell, Pelter, Vickers, Harmer, Helmick and Morrison.

PENITENTIARY

Messrs. Mitchell (*Chairman*), Bailey, Burchett, Fleming, McKown, Winters, Bowers, Doak and Reed.

PRIVILEGES AND ELECTIONS

Messrs. Perry (*Chairman*), Belknap, Burchett, Eddy, Hall (of Boone), Jimison, Boreman, Hannig and Helmick.

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Messrs. Bailey (*Chairman*), Bowling, Hall (of Boone), Hall (of Raleigh), Hardesty, Jimison, Johnston, Perry, Bowers, Musgrave and Reed.

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Messrs. Hall (of Raleigh), (*Chairman*), Bailey, Bowling, Ellison, Pelter, Winters, Boreman, Musgrave and Reed.

PUBLIC PRINTING

Messrs. Burchett (*Chairman*), Bailey, Fleming, Hall (of Boone), Hardesty, Mitchell, Hannig, Harmer and Reed.

RAILROADS

Messrs. Williams (*Chairman*), Allen, Burchett, Hall (of Raleigh), Jimison, Winters, Doak, Hannig and Young.

REDISTRICTING

Messrs. Fleming (*Chairman*), Belknap, Bowling, Eddy, Hall (of Raleigh), McKown, Boreman, Harmer and Morrison.

ROADS AND NAVIGATION

Messrs. Pelter (*Chairman*), Bailey, Belknap, Bowling, Burchett, Ellison, Fleming, Hall (of Raleigh), Jimison, Mitchell, Perry, Winters, Bowers, Hannig, Helmick, Musgrave and Reed.

RULES

Messrs. Paull (*Chairman*), Allen, Fleming, Johnston, Vickers, Helmick and Young.

TEMPERANCE

Messrs. Ellison (*Chairman*), Belknap, Burchett, Fleming, Hall (of Boone), Mitchell, Hannig, Helmick and Musgrave.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Jimison (*Chairman*), Eddy, Perry, Hall (of Boone) and Bowers.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE

Messrs. Paull (*Chairman*), Johnston and Young.

HOUSE OF DELEGATES

OFFICERS

Speaker—JOHN E. AMOS, Charleston

Clerk—J. R. ALIFF, Fayetteville

Sergeant-at-Arms—FRANK E. LEMON, Beckley

Doorkeeper—AZEL McCURDY, Huntington

County	Name	Address
Barbour.....	William Janes (R).....	Philippi
Berkeley.....	Charles R. Beard (R).....	Martinsburg
Boone.....	M. L. Postalwait (D).....	Seth
Braxton.....	J. W. Johnson (D).....	Sutton
Brooke.....	Francis Freshwater (D).....	Follansbee
Cabell.....	Mike Casey (D).....	Huntington
	John G. Hudson (D).....	Huntington
	Clyde M. Slater (D).....	Huntington
	Fred F. Rotroff (D).....	Huntington
	Henry F. White (D).....	Huntington
Calhoun.....	O. C. Hathaway (R).....	Grantsville
Clay.....	E. G. Pierson (R).....	Clay
Doddridge.....	P. Douglass Farr (R).....	West Union
Fayette.....	Lacy Neely (D).....	Oak Hill
	J. Alfred Taylor, Jr. (D).....	Fayetteville
	J. Alex Tinsley (D).....	Montgomery
	Nell W. Walker (D).....	Winona
Gilmer.....	Arlan W. Berry (D).....	Gleanville
Grant.....	Owen S. Schaeffer (R).....	Petersburg
Greenbrier.....	J. E. Baas (D).....	Lewisburg
	H. L. Van Sickler (D).....	Lewisburg
Hampshire.....	William H. Ansel, Jr. (D).....	Springfield
Hancock.....	Scott Brown (R).....	New Cumberland
Hardy.....	George C. Trumbo (D).....	Milam
Harrison.....	*Harvey W. Harmer (R).....	Clarksburg
	Thomas Franklin Mills (D).....	Clarksburg
	W. Frank Stout (R).....	Clarksburg
	Leonard G. Williams (R).....	Clarksburg
Jackson.....	Harlan Staats (R).....	Ripley
Jefferson.....	M. S. R. Moler (D).....	Shepherdstown
Kanawha.....	John E. Amos (D).....	Charleston
	L. J. Callinan (R).....	Charleston
	J. Horner Davis (D).....	Charleston
	Boyd C. Holley (R).....	East Bank
	Ray L. Hope (R).....	Charleston
	Frank A. Knight (D).....	So. Charleston
	Latelle M. LaFollette, Jr. (R).....	Charleston
	Roy Stuart Samms, Jr. (R).....	Charleston
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	B. R. Osborne (R).....	Griffithsville
Logan.....	Wallace E. Ferrell (D).....	Chapmanville
	Glenn Jackson (D).....	Logan
	Hugh Paul (D).....	Holden

HOUSE OF DELEGATES

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County	Name	Address
Marion.....	Haymond A. Alltop (D)..... K. C. Currey (D)..... Fred L. Doring (D).....	Fairmont Fairmont Fairmont
Marshall.....	Everett F. Moore (R)..... Floyd R. Yoho (R).....	Moundsville Moundsville
Mason.....	George A. Rairden (R).....	Leon
Mercer.....	J. C. Fanning (D)..... Walter V. Ross (D)..... P. T. Saunders (D).....	Princeton Bluefield Bluefield
Mineral.....	John I. Rogers (R).....	Keyser
Mingo.....	Toney E. Cline (D)..... Glenn Taylor (D).....	War Eagle Matewan
Monongalia.....	Franklin M. Brand (R)..... J. W. Hartigan (R).....	Morgantown Morgantown
Monroe.....	Sherman Ballard (R).....	Peterstown
Morgan.....	Harvey D. Beeler (R).....	Berkeley Springs
McDowell.....	William T. Blankenship (D)..... George Evans (D)..... J. C. Hansbarger (D)..... E. B. Shannon (D)..... Bernard H. Woodyard (D).....	Eckman Jaeger Welch Welch Welch
Nicholas.....	Wendell H. Holt (D).....	Richwood
Ohio.....	William Callahan (R)..... Edward James Flaccus (R)..... Dan Herd (R)..... Wright Hugs (R).....	Wheeling Wheeling Wheeling Wheeling
Pendleton.....	William McCoy (D).....	Franklin
Pleasants.....	J. C. Powell (R).....	St. Marys
Pocahontas.....	June McElwee (D).....	Marlinton
Preston.....	A. L. Reed (R).....	Newburg
Putnam.....	James K. Arnett (R).....	Winfield
Raleigh.....	O. C. Flint (D)..... Cecil L. Miller (R)..... John C. Ward (D).....	Beckley Beckley Beckley
Randolph.....	N. T. Downs (D).....	Mill Creek
Ritchie.....	Robert Morris (R).....	Harrisville
Roane.....	R. L. McCulty (R).....	Spencer
Summers.....	O. E. Garten (D).....	Talcott
Taylor.....	Herman Lee Potts (R).....	Grafton
Tucker.....	Cleon W. Raese (R).....	Davis
Tyler.....	Cecil L. Nichols (R).....	Alma
Upshur.....	Perce J. Ross (R).....	Buckhannon
Wayne.....	Max F. Carey (D)..... Emmett G. Staley (D).....	Kenova Wayne
Webster.....	Boyd Dotson (R).....	Webster Springs
Wetzel.....	Herbert Schuppach (D).....	New Martinsville
Wirt.....	Roy I. Douglas (R).....	Elizabeth, Rt. 4
Wood.....	Spencer K. Creel (R)..... Blaine M. Miller (R)..... Robert Evans Stanley (R).....	Parkersburg, Rt. 5 Parkersburg Parkersburg
Wyoming.....	Wallace Morgan (D).....	Hanover

(D) Democrats..... 50
(R) Republicans..... 44

Total..... 94

(*) Appointed January 15, 1943, to fill the vacancy caused by the death of Delegate-elect Edward J. Kells.

Standing Committees of the House of Delegates

AGRICULTURE

Messrs. McElwee (*Chairman*), Bass (*Vice Chairman*), Ansel, Casey, Downs, Fanning, Garten, McCoy, Moler, Saunders, Trumbo, Arnett, Beeler, Creel, Douglas, McCulty, Morris, Nichols, Schaeffer and Staats.

ARTS, SCIENCE AND GENERAL IMPROVEMENTS

Messrs. Blankenship (*Chairman*), Fanning (*Vice Chairman*), Alltop, Cline, Evans, Ferrell, Neely, Ross (of Mercer), Mrs. Walker, Messrs. Arnett, Beard, Brown, Callahan, Callinan and Dotson.

BANKS AND CORPORATIONS

Messrs. Moler (*Chairman*), Slater (*Vice Chairman*), Bass, Carey, Casey, Hansbarger, Holt (of Nicholas), McElwee, Morgan, Paul, Ballard, Beeler, Herd, Hope, Miller (of Wood) and Moore.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Berry (*Chairman*), Paul (*Vice Chairman*), Bass, Carey, Doring, Hansbarger, Jackson, Johnson, Knight, McElwee, Slater, Taylor (of Mingo), Van Sickler, Woodyard, Beeler, Brand, Farr, Herd, Hope, Hugus, Ross (of Upshur) and Williams.

EDUCATION

Messrs. Holt (of Lewis) (*Chairman*), Berry (*Vice Chairman*), Alltop, Ansel, Bass, Blankenship, Casey, Ferrell, Freshwater, Mills, Slater, Staley (of Wayne), Taylor (of Mingo), Mrs. Walker, Messrs. White, Douglas, Hartigan, Miller (of Raleigh), Nichols, Powell, Ross (of Upshur) and Williams.

ELECTIONS AND PRIVILEGES

Messrs. Doring (*Chairman*), Ferrell (*Vice Chairman*), Bass, Blankenship, Holt (of Lewis), Johnson, McCoy, Morgan, Paul, Ross (of Mercer), Saunders, Schupbach, Staley (of Wayne), Woodyard, Callinan, Miller (of Wood), Moore, Nichols and Stealey (of Wood).

EXECUTIVE OFFICES AND LIBRARY

Messrs. Casey (*Chairman*), Neely (*Vice Chairman*), Fanning, Garten, Holt (of Lewis), Trumbo, Van Sickler, Brown, Dotson and Samms.

FEDERAL RELATIONS

Messrs. Holt (of Nicholas) (*Chairman*), Schupbach (*Vice Chairman*), Alltop, Carey, Cline, Doring, Downs, Freshwater, Hudson, Johnson, McCoy, Neely, Shannon, Callinan, Hathaway, Janes, Morris, Rogers, Ross (of Upshur) and Stealey (of Wood).

FORESTRY AND CONSERVATION

Messrs. Trumbo (*Chairman*), McCoy (*Vice Chairman*), Cline, Downs, Evans, Garten, Knight, McElwee, Postalwait, Rotroff, Saunders, Tinsley, Dotson, Hathaway, LaFollette, Osborne, Pierson, Potts, Powell, Ross (of Upshur) and Schaeffer.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Jackson (*Chairman*), Ward (*Vice Chairman*), Berry, Carey, Currey, Hudson, McCoy, Moler, Neely, Taylor (of Fayette), Woodyard, Harmer, LaFollette, Moore, Raese, Stealey (of Wood), Stout and Williams.

GAME AND FISH

Messrs. Knight (*Chairman*), Jackson (*Vice Chairman*), Ansel, Carey, Currey, Holt (of Nicholas), McElwee, Mills, Morgan, Rotroff, Saunders, Tinsley, Ward, Arnett, Ballard, Dotson, LaFollette, Osborne, Potts, Ross (of Upshur), Schaeffer and Staats.

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Ansel (*Chairman*), Mills (*Vice Chairman*), Blankenship, Carey, Currey, Downs, Evans, Ferrell, Flint, Johnson, Knight, McElwee, Moler, Saunders, White, Woodyard, Arnett, Beard, Brown, Hartigan, Herd, Potts, Powell, Reed, Ross (of Upshur) and Stout.

INSURANCE

Messrs. Bass (*Chairman*), Holt (of Lewis) (*Vice Chairman*), Ansel, Berry, Davis, Doring, Evans, Flint, Hansbarger, Hudson, Johnson, Moler, Mrs. Walker, Messrs. Ward, Ballard, Brand, Brown, Flaccus, Herd, Miller (of Wood) and Ross (of Upshur).

JUDICIARY

Messrs. Van Sickler (*Chairman*), Davis (*Vice Chairman*), Ansel, Berry, Brand, Currey, Holt (of Nicholas), Hudson, McCoy, Paul, Ross (of Mercer), Rotroff, Saunders, Mrs. Walker, Messrs. Ballard, Callahan, Farr, Harmer, Janes, Moore, Pierson and Samms.

LABOR

Messrs. McCoy (*Chairman*), Flint (*Vice Chairman*), Alltop, Casey, Johnson, Knight, Ross (of Mercer), Shannon, Mrs. Walker, Messrs. Ballard, Brand, Callinan, Creel, Flaccus, Harmer, Hope, McCulty, Pierson, Powell, Rairden and Ross (of Upshur).

MEDICINE AND SANITATION

Messrs. Evans (*Chairman*), White (*Vice Chairman*), Carey, Downs, Freshwater, Garten, Holt (of Nicholas), Hudson, McCoy, Morgan, Saunders, Taylor (of Fayette), Trumbo, Mrs. Walker, Messrs. Ward, Beard, Hartigan, Pierson, Potts, Rogers and Stout.

MILITARY AFFAIRS

Messrs. Staley (of Wayne) (*Chairman*), Schupbach (*Vice Chairman*), Blankenship, Casey, Cline, Doring, Downs, Holt (of Nicholas), Hudson, Jackson, Knight, Rotroff, Tinsley, Ballard, Creel, Farr, Flaccus, Hope and Powell.

MINES AND MINING

Messrs. Rotroff (*Chairman*), Woodyard (*Vice Chairman*), Berry, Fanning, Holt (of Lewis), Johnson, Morgan, Paul, Staley (of Wayne), Tinsley, Ward, Ballard, Beeler, Creel, Hartigan, Holley, Miller (of Raleigh), Moore, Raese and Staats.

PENITENTIARY

Messrs. Slater (*Chairman*), Currey (*Vice Chairman*), Alltop, Casey, Downs, Flint, Freshwater, Knight, Mills, Schupbach, Tinsley, Beeler, Creel, Hartigan, Hope, Powell, Reed, Williams and Yoho.

PRINTING AND CONTINGENT EXPENSES

Messrs. Woodyard (*Chairman*), Carey (*Vice Chairman*), Casey, Fanning, Ferrell, Knight, McCoy, Ross (of Mercer), Shannon, Taylor (of Mingo), Ward, White, Callinan, Hope, Schaeffer and Stealey (of Wood).

RAILROADS

Messrs. Slater (*Chairman*), Ansel (*Vice Chairman*), Carey, Davis, Flint, Garten, Hansbarger, Paul, Taylor (of Mingo), Van Sickler, Ballard, Beard, Beeler, Flaccus, Hugus, Moore, and Rogers.

REDISTRICTING

Messrs. Taylor (of Mingo) (*Chairman*), Carey (*Vice Chairman*), Ferrell, Freshwater, Garten, McCoy, Morgan, Neely, Postalwait, Taylor (of Fayette), Trumbo, Ward, White, Woodyard, Arnett, Creel, Dotson, Farr, Janes, Miller (of Raleigh), Osborne, Schaeffer and Staats.

ROADS

Messrs. Mills (*Chairman*), Hudson (*Vice Chairman*), Berry, Cline, Davis, Flint, Garten, Johnson, McCoy, Morgan, Staley (of Wayne), Taylor (of Fayette), Taylor (of Mingo), Trumbo, Van Sickler, White, Arnett, Beard, Brand, Douglas, Flaccus, Harmer and Nichols.

RULES

Messrs. Amos (*Chairman, ex officio*), Davis, Hansbarger, Paul, Van Sickler, Ballard, Hugus and Moore.

STATE BOUNDARIES

Messrs. Ferrell (*Chairman*), Garten (*Vice Chairman*), Alltop, Casey, Cline, Downs, Evans, Hudson, McCoy, Morgan, Neely, Schupbach, Trumbo, Beard, Miller (of Wood), Nichols, Osborne, Raese, Reed and Yoho.

TAXATION AND FINANCE

Messrs. Hansbarger (*Chairman*), McElwee (*Vice Chairman*), Davis, Doringer, Holt (of Lewis), Jackson, Johnson, Knight, Mills, Moler, Schupbach, Slater, Taylor (of Mingo), Ward, Woodyard, Beeler, Hathaway, Hartigan, Hugus, LaFollette, Powell, Rairden, Reed, Stealey (of Wood) and Stout.

TEMPERANCE

Messrs. Saunders (*Chairman*), Mills (*Vice Chairman*), Blankenship, Carey, Doringer, Hansbarger, Hudson, Holt (of Nicholas), McElwee, Morgan, Brown, Flaccus, Miller (of Raleigh), Moore, Morris, Raese, Rairden, Ross (of Upshur) and Yoho.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Rotroff (*Chairman*), Ferrell, Morgan, Hope and Miller (of Raleigh).

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Amos (Mr. Speaker) (*Chairman ex officio*), Van Sickler and Moore.

HOUSE MEMBERS OF THE COMMISSION ON INTERSTATE COOPERATION

Messrs. Knight (*Chairman*), Ferrell, Schupbach, Rogers and Schaeffer.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1943

REGULAR SESSION

CHAPTER 1

(Com. Sub. for Senate Bill No. 21—Originating in the Senate Committee on Finance)

AN ACT making an appropriation of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

[Passed March 13, 1943; in effect from passage.]

Title

1. General Provisions.
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

1. General policy.
2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.
5. Limitations on expenditures.
6. Maximum expenditures.

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred forty-four and one thousand nine hundred forty-five. To give effect to this purpose, the board of

7 public works shall supervise the fiscal policy, control the
8 assumption of obligations, and regulate the expenditures
9 of the agencies of the state.

Sec. 2. *Definitions.*—For the purpose of this act:

2 “Board” shall mean the board of public works;

3 “Spending unit” shall mean the department, agency, or
4 institution to which an appropriation is made;

5 The “fiscal year one thousand nine hundred forty-four”
6 shall mean the period from July first, one thousand nine
7 hundred forty-three, through June thirtieth, one thousand
8 nine hundred forty-four, and the “fiscal year one thousand
9 nine hundred forty-five” shall mean the period from July
10 first, one thousand nine hundred forty-four, through June
11 thirtieth, one thousand nine hundred forty-five.

12 “From collections” shall mean that part of the total
13 appropriation which must be collected by the spending
14 unit to be available for expenditure. If the authorized
15 amount of collections is not collected, the total appropri-
16 ation for the spending unit shall be reduced automatically
17 by the amount of the deficiency in the collection. If the
18 amount collected exceeds the amount designated “from
19 collections”, the excess shall be set aside in a special sur-
20 plus fund and may be expended for the purpose of the
21 spending unit as provided by chapter thirty-nine, acts of
22 the Legislature, regular session, one thousand nine hundred
23 thirty-nine.

Sec. 3. *Classification of Appropriations.*—An appropri-
2 ation for:

3 “Personal services” shall be expended only for the pay-
4 ment of salaries, wages, fees, and other compensation for
5 skill, work, or employment;

6 “Current expenses” shall be expended only for oper-
7 ating costs other than personal services or capital outlay;

8 “Repairs and alterations” shall include all expenditures
9 for materials, supplies and labor used in repairing and
10 altering buildings, grounds and equipment.

11 “Equipment” shall be expended only for things which
12 have an appreciable and calculable period of usefulness
13 in excess of one year;

14 "Buildings" shall include construction and alteration of
 15 structures and the improvement of lands and shall in-
 16 clude shelter, support, storage, protection, or the improve-
 17 ment of a natural condition;

18 "Lands" shall be expended only for the purchase of land
 19 or interests in lands.

Sec. 4. *Method of Expenditure.*—Money appropriated by
 2 this act, unless otherwise specifically directed, shall be
 3 appropriated and expended according to the provisions of
 4 article three, chapter twelve of the code of one thousand
 5 nine hundred thirty-one, or according to any law detailing a
 6 procedure specifically limiting that article.

Sec. 5. *Limitations on Expenditures.*—The expenditure
 2 of money appropriated by this act shall be limited to the
 3 specific amount appropriated to each item. There shall be
 4 no transfer of amounts between items of the appropriation
 5 of the spending unit without prior authorization by the
 6 board of public works, as provided by chapter thirty-nine,
 7 acts of the Legislature, regular session, one thousand nine
 8 hundred thirty-nine.

Sec. 6. *Maximum Expenditures.*—No authority or re-
 2 quirement of law shall be interpreted as requiring or per-
 3 mitting an expenditure in excess of the appropriations set
 4 out in this act.

Title 2. Appropriations.

Section

1. Governmental appropriations.

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14. Appropriation to pay costs of publication of delinquent corporations.
15. Appropriations for local governments.
16. Printing costs.
17. Total appropriation.
18. General school fund.

Section 1. *Governmental Appropriations.*—From the
 2 state fund, general revenue, except as otherwise provided,
 3 there is hereby appropriated conditionally upon the ful-
 4 fillment of the provisions set forth in chapter thirty-nine,
 5 acts of the Legislature, regular session, one thousand nine
 6 hundred thirty-nine, the following amounts, as itemized,
 7 for expenditures during the fiscal years one thousand nine
 8 hundred forty-four and one thousand nine hundred forty-
 9 five.

LEGISLATIVE

1—Senate

Acct. No. 101

Fiscal Years

		1943-44	1944-45
1 Salaries of members	\$	16,000.00	\$ 16,000.00
2 To pay Clerk of the Senate for			

3	compiling and publishing the			
4	West Virginia Blue Book, in-			
5	cluding all expenses incurred			
6	in the employment of contrib-			
7	utors, preparation of matter,			
8	clerical hire, stenographic			
9	services and proofreading,			
10	and for shipping charges in			
11	connection with the distribu-			
12	tion of the Blue Book; which			
13	distribution shall include			
14	seventy-five copies each to			
15	members of the Legislature—\$	10,000.00	\$	8,000.00
16	To pay cost of printing 1943 and			
17	1944 editions of Blue Book—\$	32,000.00	\$	32,000.00
18				
19	Mileage of members—			
20				
21	Compensation and per diem of			
22	officers and attaches			
23				
24	Current expenses and contin-			
25	gent fund			
26				
27	To pay cost of printing 1942			
28	Blue Book			
29				
30	The above appropriations for			
31	the fiscal year 1942-43 are to			
32	remain in full force and effect			
33	until the convening of the			
34	regular session of the Legis-			
35	lature, 1945.			
36	The Clerk of the Senate is au-			
37	thorized to draw his warrants			
38	upon the Auditor, payable			
39	out of the contingent fund of			
40	the Senate, for any bills for			
41	supplies and services that			
42	may have been incurred by			
43	the Senate and not included			
	in the appropriation bill, and			
	for bills for supplies and serv-			
	ices incurred after adjourn-			
	ment, the requisition for same			

44 to be accompanied by bills to
 45 be filed with the Auditor.
 46 To aid in the discharge of his
 47 duties, the Clerk may expend
 48 for stenographic services a
 49 sum not exceeding twenty-
 50 one hundred dollars per an-
 51 num, and for janitor services
 52 a sum not exceeding thirteen
 53 hundred twenty dollars per
 54 annum, both payable monthly
 55 from the contingent fund of
 56 the Senate.

2—House of Delegates

Acct. No. 102

1	Salaries of members	\$	47,000.00	\$	47,000.00
2					<i>Fiscal Year 1942-43</i>
3	Mileage of members			\$	2,559.20
4	Compensation and per diem of				
5	officers and attaches.....			\$	52,172.00
6	Current expense and contin-				
7	gent fund			\$	85,000.00
8	Expense special house com-				
9	mittee created by House				
10	Resolution No. 30.....			\$	2,500.00
11	The Clerk of the House of Dele-				
12	gates, with the approval of the				
13	Speaker of the House, is au-				
14	thorized to draw his requis-				
15	itions upon the Auditor, pay-				
16	able out of the contingent				
17	fund, for any bills for supplies				
18	and services that may have				
19	been incurred by the House of				
20	Delegates and not included in				
21	this appropriation bill, for				
22	bills for supplies and services				
23	incurred after adjournment,				
24	the requisition for same to be				
25	accompanied by a bill to be				

26 filed with the Auditor, but no
27 payment shall be made to
28 attaches under this para-
29 graph.

30 For duties imposed by law and
31 by the House of Delegates, in-
32 cluding the salary allowed by
33 law as keeper of the rolls, the
34 Clerk of the House of Dele-
35 gates shall be paid a monthly
36 salary at the rate of five thou-
37 sand dollars per annum, pay-
38 able from the contingent fund
39 of the House of Delegates, and
40 the Clerk may employ a sec-
41 retary at a salary of not to
42 exceed eighteen hundred dol-
43 lars per annum, payable
44 monthly from the same fund.
45 During the sessions of the
46 Legislature the Clerk of the
47 House of Delegates shall keep
48 his office open during such
49 hours as the House may di-
50 rect. When the Legislature is
51 not in session the office of the
52 Clerk of the House of Dele-
53 gates shall be kept open as
54 other public offices in the
55 capitol are kept open.

3—*Joint Expenses*

Acct. No. 103

1 To pay the cost of legislative
2 printing and stationery, the
3 appropriation to be available
4 for the year ending June
5 thirty, one thousand nine
6 hundred forty-three. If this
7 work is not completed prior
8 to June thirty, one thousand

9 nine hundred forty-three,
 10 then the appropriation shall
 11 continue in full until com-
 12 pleted _____\$ 70,000.00

JUDICIAL

6—*Supreme Court of Appeals*

Acct. No. 110

1	Salaries of Judges	\$ 50,000.00	\$ 50,000.00
2	Other Personal Services	44,930.00	44,930.00
3	Current Expenses	10,000.00	10,000.00
4	Total	\$ 104,930.00	\$ 104,930.00

7—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges of the Circuit		
2	Courts	\$ 165,000.00	\$ 165,000.00
3	Current Expenses	25,000.00	25,000.00
4	Total	\$ 190,000.00	\$ 190,000.00

8—*Compensation of Special Judges*

Acct. No. 113

1	To pay Salaries of Special		
2	Judges		
3	Total	\$ 5,000.00	\$ 5,000.00

9—*State Law Library*

Acct. No. 114

1	Personal Services, including		
2	Salaries of Librarian and		
3	Assistants	\$ 5,600.00	\$ 5,600.00
4	Current Expenses	700.00	700.00
5	Equipment	5,000.00	5,000.00
6	Total	\$ 11,300.00	\$ 11,300.00

10—*Criminal Charges*

Acct. No. 119

1	Total	\$ 75,000.00	\$ 75,000.00
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11—*The Judicial Council*

Acct. No. 118

1	To pay the per diem of Members			
2	and other General Expenses			
3	Total	\$	1,455.00	\$ 1,455.00

EXECUTIVE

12—*Governor's Office*

Acct. No. 120.

1	Salary of Governor	\$	10,000.00	\$	10,000.00
2	Other Personal Services, in-				
3	cluding Salaries of Secre-				
4	taries, Stenographers and As-				
5	sistants		15,000.00		15,000.00
6	Civil Contingent and Current				
7	Expenses		15,000.00		15,000.00
8	To be expended upon the order				
9	of the Governor. One hun-				
10	dred dollars annual dues to				
11	the Governors' Conference				
12	shall be included in this item.				
13	Emergency Fund		135,000.00		135,000.00
14	Of this appropriation \$35,000.00				
15	shall be expended only for				
16	the purpose of protecting the				
17	state's credit as to bond issues				
18	by state institutions to cover				
19	federal loans to such institu-				
20	tions.				
21	Custodial	\$	13,500.00	\$	13,500.00
22	To be used for Current General				
23	Expenses, including official				
24	functions, and any additional				
25	household expenses thereby				
26	incurred.				
27	Total	\$	188,500.00	\$	188,500.00

13—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1 Personal Services, including

2	Salary of Director	\$ 33,000.00	\$ 33,000.00
3	Current Expenses	15,000.00	15,500.00
4	Equipment	750.00	750.00
5	Total	\$ 48,750.00	\$ 49,250.00

FISCAL

150—Auditor's Office

Acct. No. 150

1	Salary of State Auditor	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	72,000.00	72,000.00
3	Current Expenses	11,000.00	11,000.00
4	Equipment	3,000.00	3,000.00
5	Total	\$ 92,000.00	\$ 92,000.00
6	From Collections	5,500.00	5,500.00

151—Auditor's Office: Land Department

Acct. No. 704

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 74,000.00	\$ 52,000.00
2	Current Expenses	4,000.00	3,000.00
3	Equipment	2,500.00	1,000.00
4	Total	\$ 80,500.00	\$ 56,000.00

5 The total appropriation to the
6 Auditor's Office, Land De-
7 partment, shall include all
8 expenditures necessary for
9 the operation of the Land De-
10 partment. Should any ex-
11 penditures be made from the
12 Operating Fund, Land De-
13 partment, as provided by
14 Chapter 117, Acts of the Leg-
15 islation, 1941, for the opera-
16 tion of the Land Department,
17 the total amount of this ap-
18 propriation shall be reduced
19 in like amount.

20 In addition to the total appro-
21 priation for the Auditor's Of-
22 fice, Land Department, there
23 is hereby appropriated from
24 the General School Fund, a
25 sum not to exceed \$300,000.00,
26 to be available from passage,
27 to pay the costs of publi-
28 cation, fees to Deputy Com-
29 missioners of Forfeited and
30 Delinquent Lands, circuit
31 court costs and premiums on
32 bonds of the Deputy Com-
33 missioners of Forfeited Lands,
34 as provided by Chapter 117,
35 Acts of the Legislature, 1941.
36 This appropriation shall re-
37 main in force until June 30,
38 1945.

16—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer.....\$	6,000.00	\$	6,000.00
2	Other Personal Services	34,180.00		34,180.00
3	Current Expenses	6,019.00		6,425.00
4	Equipment	1,360.00		5,380.00
5	Total	\$ 47,559.00	\$	51,985.00

17—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services.....\$	8,190.00	\$	8,190.00
2	Current Expenses	500.00		500.00
3	Total	\$ 8,690.00	\$	8,690.00

18—*Tax Commissioner*

Acct. No. 180

1	Salary of Tax Commissioner.....\$	6,000.00	\$	6,000.00
2	Other Personal Services.....	295,000.00		280,000.00

3	Current Expenses	120,000.00	120,000.00
4	Equipment	4,000.00	4,000.00

5	Total	\$ 425,000.00	\$ 410,000.00
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6 This appropriation shall include

7 all expenditures for the op-

8 eration of the Gasoline De-

9 partment formerly appropri-

10 ated from the State Road

11 Fund, and all expenditures

12 for the operation of the Beer

13 Division formerly paid from

14 gross collections as provided

15 by Chapter 12, Article 15,

16 Section 19, Acts of the Leg-

17 islature, 1937.

18 Of the appropriation for "Other

19 Personal Services", not more

20 than \$6,000.00 annually shall

21 be expended only for Special

22 Legal Services.

19—West Virginia Board of Control

Acct. No. 190

1 Salaries of the three members

2 of the Board of Control.....\$ 15,000.00 \$ 15,000.00

3 Other Personal Services.....\$ 22,000.00 \$ 22,000.00

4 Current Expenses

8,000.00 8,000.00

5 Equipment

900.00 900.00

6 Total

\$ 45,900.00 \$ 45,900.00

21—Director of the Budget

Acct. No. 210

1 Personal Services, including

2 Salary of the Director of the

3 Budget

\$ 29,000.00 \$ 29,000.00

4 Current Expenses.....

1,800.00 3,200.00

5 Equipment

500.00 500.00

6 Total

\$ 31,300.00 \$ 32,700.00

LEGAL

25—Attorney General

Acct. No. 240

1	Salary of Attorney General.....	\$	6,000.00	\$	6,000.00
2	Other Personal Services		37,500.00		37,500.00
3	Current Expenses		4,000.00		4,000.00
4	Equipment		1,250.00		1,250.00
5	Contingent Fund		500.00		500.00
6	To protect the resources or tax				
7	structure of the state in con-				
8	troversies or legal proceed-				
9	ings affecting same. Any un-				
10	expended balance remaining				
11	in this fund at the close of the				
12	fiscal year 1943-44 is hereby				
13	reappropriated for expendi-				
14	ture during the fiscal year				
15	1944-45	\$	12,500.00	\$	12,500.00
16	Total	\$	61,750.00	\$	61,750.00

26—State Court of Claims

Acct. No. 243

1	Personal Services	\$	10,600.00	\$	10,850.00
2	Current Expenses		3,000.00		3,000.00
3	Equipment		800.00		800.00
4	Total	\$	14,400.00	\$	14,650.00
5	To pay per diem of members,				
6	and other general expenses				
7	in accordance with chapter				
8	twenty, acts of the Legisla-				
9	ture, one thousand nine hun-				
10	dred forty-one.				

27—Commission on Uniform State Laws

Acct. No. 245

1	Total	\$	250.00	\$	250.00
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INCORPORATING AND RECORDING

29—*Secretary of State*

Acct. No. 250

1	Salary of Secretary of State.....	\$	6,000.00	\$	6,000.00
2	Other Personal Services.....		15,000.00		15,000.00
3	Current Expenses.....		3,000.00		3,000.00
4	Equipment		300.00		300.00
5	Total	\$	24,300.00	\$	24,300.00
6	The above appropriation for				
7	“Other Personal Services”,				
8	includes salary of clerk of the				
9	State Court of Claims.				

30—*State Election Commission*

Acct. No. 256

1	Total	\$	500.00	\$	1,000.00
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CUSTODIAL AND SERVICE

31—*Capitol Building and Grounds*

Acct. No. 270

1	Personal Services	\$	70,000.00	\$	70,000.00
2	Current Expenses		36,000.00		36,000.00
3	Repairs and Alterations.....		10,000.00		10,000.00
4	Equipment		1,000.00		1,000.00
5	Total	\$	117,000.00	\$	117,000.00

32—*Central Mailing Office*

Acct. No. 280

1	Personal Services	\$	8,300.00	\$	8,300.00
2	Current Expenses.....		70,000.00		70,000.00
3	Equipment		200.00		200.00
4	Total	\$	78,500.00	\$	78,500.00
5	Out of the item “Current Ex-				
6	pense” in the above appro-				
7	priation, in the amount of				
8	\$70,000.00, no moneys shall be				

9 available for the purchase of
10 United States postage stamps.
11 It shall be available only for
12 the purchase of postage meter
13 service and routine current
14 expense. All state spending
15 units domiciled in or adjacent
16 to the capitol building, ex-
17 cept the Unemployment Com-
18 pensation Commission, and
19 the State Road Commission
20 as applies to auto license
21 tags, shall dispatch all mail
22 through the *Central Mailing*
23 *Office*. The Workmen's Com-
24 pensation Commission and
25 the West Virginia Public
26 Service Commission shall re-
27 imburse the Current Expense
28 appropriation of the Central
29 Mailing Office monthly for
30 all meter service. Any spend-
31 ing unit receiving reimburse-
32 ment for postage costs from
33 the Federal Government shall
34 refund to the Current Ex-
35 pense appropriation of the
36 Central Mailing Office such
37 amounts. Should this appro-
38 priation for Current Expense
39 be insufficient to meet the
40 mailing requirements of the
41 state spending units as set
42 out above, any excess pos-
43 tage meter service require-
44 ments shall be a proper
45 charge against the units, and
46 each spending unit shall re-
47 fund to the Current Expense
48 appropriation of the Central
49 Mailing Office any amounts

- 50 required for that department
 51 for postage in excess of this
 52 appropriation.

33—Department of Purchases

Acct. No. 290

1	Salary of Director of Purchases..\$	6,000.00	\$	6,000.00
2	Other Personal Services.....	30,000.00		30,000.00
3	Current Expenses.....	6,000.00		6,000.00
4	Equipment	1,000.00		1,000.00
5	Total	\$ 43,000.00	\$	43,000.00
6	The revolving fund appropri-			
7	ated by Chapter 76, Acts of			
8	the Legislature, Regular Ses-			
9	sion, 1935, for printing, bind-			
10	ing and stationery is hereby			
11	reappropriated for the fiscal			
12	years 1943-44 and 1944-45.			

EDUCATIONAL

360—State Board of Education

Acct. No. 700

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Salaries of members of the			
2	State Board of Education.....\$	4,800.00	\$	4,800.00
3	Other Personal Services.....	6,000.00		6,000.00
4	Current Expenses	2,500.00		2,500.00
5	Equipment	200.00		200.00
6	Out-of-State Aid to Negroes	9,000.00		9,000.00
7	Total	\$ 22,500.00	\$	22,500.00

361—State Board of Education—Vocational Division

Acct. No. 701

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 12,500.00	\$	12,500.00
2	Current Expenses	5,000.00		5,000.00
3	Equipment	300.00		300.00

4	Vocational Aid	60,000.00	60,000.00
5	Total	\$ 77,800.00	\$ 77,800.00

362—*State Board of Education—Rehabilitation Division*

Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 12,903.00	\$ 12,903.00
2	Current Expenses	30,000.00	30,000.00
3	Total	\$ 42,903.00	\$ 42,903.00

370—*Department of Education*

Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Salary of Superintendent of		
2	Free Schools	\$ 6,000.00	\$ 6,000.00
3	Other Personal Services	63,000.00	63,000.00
4	Current Expenses	35,000.00	35,000.00
5	Equipment	1,000.00	1,000.00
6	Salaries of County Superin-		
7	tendents	62,000.00	62,000.00
8	Total	\$ 167,000.00	\$ 167,000.00
9	Out of the above appropriation		
10	an amount not to exceed		
11	\$10,000.00 each year from the		
12	personal service account, and		
13	\$5,000.00 each year from the		
14	current expense account shall		
15	be available for expenditure		
16	at the direction of the Board		
17	of School Finance in the per-		
18	formance of its duties as pre-		
19	scribed by law.		

371—*Department of Education—Hot Lunches*

Acct. No. 705

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 4,500.00	\$ 4,500.00
2	1 State Supervisor.....	\$2,700.00	

3	Clerk and Secretary..	1,800.00		
4	Current Expenses		2,000.00	2,000.00
5	Office Equipment.....	500.00		
6	Travel	1,000.00		
7	Supplies	500.00		
8	Aid to Counties.....		100,000.00	100,000.00
9	Includes hot lunches and can-			
10	ning for hot lunches.			
11	Total	\$	106,500.00	\$ 106,500.00

372—Department of Education

Acct. No. 6407

1	State Aid to supplement the			
2	General School Fund.....	\$15,125,000.00		\$15,125,000.00
3	To be transferred to the Gen-			
4	eral School Fund upon the			
5	requisition of the Governor.			
6	To be distributed according to			
7	Chapter 46, Acts of the			
8	Legislature, Regular Session,			
9	1939, as amended, except an			
10	amount not to exceed \$25,-			
11	000.00 for each year of the			
12	biennium, which sum shall			
13	be available to the State			
14	Board of School Finance to			
15	aid counties in providing in-			
16	struction for crippled children			
17	under such rules and regu-			
18	lations for instruction of crip-			
19	pled children as may be			
20	adopted by the State Board			
21	of Education as provided by			
22	section five, article two of the			
23	West Virginia Code, one thou-			
24	sand nine hundred thirty-one,			
25	as amended.			
26	State Aid to provide Bonus			
27	for Teachers not to exceed..	\$ 3,550,000.00		\$ 3,550,000.00
28	The appropriation next above			
29	includes, but is not limited			

30 to the balance of the unen-
31 cumbered and unexpended
32 contingent items in subsection
33 5, Section 4 of the 1941
34 Budget Act as provided in
35 Section 4, Title Two of this
36 Act.

37 The sum for each year of the
38 biennium, as set forth above
39 shall be allocated monthly by
40 the State Board of School
41 Finance, to each county in
42 amounts to be computed by
43 multiplying by two hundred
44 twenty-five the number of
45 such teachers actually em-
46 ployed by the county board
47 for the current school year,
48 which number shall in no
49 instance exceed the number
50 of such teachers approved for
51 employment in such county
52 by the board of finance.

53 No part of the funds distrib-
54 uted under this subsection
55 shall be available for any
56 purpose other than teachers'
57 salaries, and no part of same
58 shall be made available to any
59 county board which reduces
60 salaries below the salaries
61 paid to teachers for the school
62 year one thousand nine hun-
63 dred forty-two and one thou-
64 sand nine hundred forty-
65 three, including the legal
66 minimum salary plus the ex-
67 cess salary paid by the county
68 board for the school year one
69 thousand nine hundred forty-
70 two and one thousand nine

71 hundred forty-three, except
72 that such excess salary may
73 be reduced on the approval
74 of the board of finance when
75 such reduction is based on
76 any or all of the following
77 factors affecting local reve-
78 nues out of which such ex-
79 cess salaries were paid: (a)
80 Rejection by the voters of
81 the county of a special levy
82 previously approved by the
83 voters of the county and ef-
84 fective during the school year
85 one thousand nine hundred
86 forty-two and one thousand
87 nine hundred forty-three or
88 one thousand nine hundred
89 forty-three and one thousand
90 nine hundred forty-four; (b)
91 a substantial decline in the
92 amount of revenue; (c) or
93 other reasons approved by
94 the board of finance.
95 The additional salary received
96 by any teachers as a result
97 of the provisions of this sub-
98 section shall not be counted
99 as earnable compensation for
100 purposes of computing mem-
101 bers' contributions to the
102 accumulation fund of the
103 state teachers' retirement
104 system as prescribed in
105 section fourteen, chapter
106 thirty-six, acts of the Legis-
107 lature, regular session, one
108 thousand nine hundred forty-
109 one.
110 The amount of money neces-
111 sary to comply with the pro-

112 visions of this appropriation
 113 shall, upon the request of
 114 the Director of the Budget, be
 115 transferred from the State
 116 Fund—General Revenue to
 117 the General School Fund.

373—Department of Education

Acct. No. 6405

1 State Aid to Supplement the
 2 General School Fund, Total....\$ 100,000.00 \$ 100,000.00
 3 To be transferred to the General
 4 School Fund upon the requisition of the Governor, to provide an equalization fund for distribution to marginal counties by the State Board of School Finance in addition to the State Aid allocated in accordance with Chapter 46, Acts of Legislature, Regular Session, 1939, as amended: *Provided, however, That the State Board of School Finance shall determine at the time the budget is approved that additional aid is needed to complete a nine months term of school, or such part thereof as the above appropriations will permit.*
 23 Any balance remaining in the
 24 above appropriations after the
 25 allocating of aid to marginal
 26 counties shall revert to the
 27 State Fund—General Revenue.
 28

374—Department of Education

Acct. No. 6408

1 Textbooks for Schools\$ 150,000.00 \$ 150,000.00

- 2 To be distributed according to
 3 Chapter 51, Acts of Legis-
 4 lature, Regular Session, 1939.

38—*Teachers' Retirement Board*

Acct. No. 6409

- 1 For maintenance and operation
 2 of the Teachers' Retirement
 3 Funds\$ 1,300,000.00 \$ 1,300,000.00
 4 Of these amounts, not to exceed
 5 \$25,000.00 in each year may be
 6 spent for the operation of
 7 these funds.

39—*West Virginia University*

Acct. No. 300

- 1 Personal Services, including
 2 Salary of President.....\$ 925,000.00 \$ 925,000.00
 3 Current Expenses 154,000.00 154,000.00
 4 Repairs and Alterations 40,000.00 40,000.00
 5 Equipment 40,000.00 40,000.00
 6 State Aid to Medical Students 20,000.00 40,000.00
 7 To Equip Chemistry Building 35,000.00
 8 Total\$ 1,214,000.00 \$ 1,199,000.00
 9 From Collections 225,000.00 225,000.00

390—*West Virginia University—Mining and Industrial
 Extension*

Acct. No. 301

- 1 Personal Services\$ 30,000.00 \$ 30,000.00
 2 Current Expenses 10,000.00 10,000.00
 3 Repairs and Alterations 200.00 200.00
 4 Equipment 300.00 300.00
 5 Total\$ 40,500.00 \$ 40,500.00

391—*West Virginia University—Agricultural, Horticultural
 and Home Economics Extension*

Acct. No. 302

- 1 Personal Services\$ 45,000.00 \$ 45,000.00

2	Current Expenses	5,000.00	5,000.00
3	Repairs and Alterations.....	500.00	500.00
4	Equipment	500.00	500.00
5	Total	\$ 51,000.00	\$ 51,000.00

392—West Virginia University—Jackson's Mill—4-H Camp

Acct. No. 303

1	Personal Services.....	\$ 14,500.00	\$ 14,500.00
2	Current Expenses.....	10,000.00	10,000.00
3	Repairs and Alterations.....	5,000.00	5,000.00
4	Equipment	2,000.00	2,000.00
5	Total	\$ 31,500.00	\$ 31,500.00

393—West Virginia University—Cooperation with Oglebay Institute

Acct. No. 304

1	Total	\$ 2,000.00	\$ 2,000.00
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394—West Virginia University—Extension Division

Acct. No. 305

1	To pay salaries and expenses		
2	of County Home Demonstra-		
3	tion Agents	\$ 29,000.00	\$ 29,000.00
4	To pay salaries and traveling		
5	expenses of County Agricul-		
6	tural Agents	67,100.00	67,100.00
7	Total	\$ 96,100.00	\$ 96,100.00

395—West Virginia University—Engineering Experiment Station

Acct. No. 306

1	Personal Services.....	\$ 6,650.00	\$ 6,650.00
2	Current Expenses.....	1,900.00	
3	Equipment	1,450.00	2,000.00
4	Total	\$ 10,000.00	\$ 8,650.00

396—*West Virginia University—Agricultural Experiment Station*

Acct. No. 310

1	Personal Services	\$ 40,000.00	\$ 40,000.00
2	Current Expenses	9,000.00	9,000.00
3	Repairs and Alterations.....	2,500.00	2,500.00
4	Equipment	1,700.00	1,700.00
5	Purchase of Agronomy Farm ..	7,500.00	
6	Total	\$ 60,700.00	\$ 53,200.00

397—*West Virginia University Experiment Farm—Kearneysville*

Acct. No. 311

1	Maintenance and Operation.....	\$ 5,000.00	\$ 5,000.00
2	Equipment		450.00
3	Apple Storage Plant.....	4,500.00	
4	Machine Shed	2,000.00	
5	Total	\$ 11,500.00	\$ 5,450.00

398—*West Virginia University—Reymann Memorial Farm*

Acct. No. 312

1	Total	\$ 2,400.00	\$ 2,400.00
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399—*West Virginia University—Inwood Apple Packing Plant*

Acct. No. 313

1	For the Maintenance and Opera-		
2	tion of Inwood Apple Pack-		
3	ing Plant, Total.....	\$ 3,500.00	\$ 3,500.00

400—*Potomac State School of West Virginia University*

Acct. No. 315

1	Personal Services, including		
2	Salary of President.....	\$ 62,000.00	\$ 62,000.00
3	Current Expenses	12,500.00	12,500.00
4	Repairs and Alterations.....	4,500.00	4,500.00
5	Equipment	3,500.00	3,500.00

6	To purchase Warner Property—	2,750.00		
7	Total	\$ 85,250.00	\$	82,500.00
8	From Collections	13,000.00		13,000.00

401—Marshall College

Acct. No. 320

1	Personal Services, including			
2	Salary of President	\$ 300,000.00	\$	300,000.00
3	Current Expenses	35,000.00		36,000.00
4	Repairs and Alterations	15,000.00		15,000.00
5	Equipment	20,000.00		18,000.00
6	Building, Payment to Fairfield			
7	Stadium Corporation	5,000.00		5,000.00
8	Flood Wall Assessment	1,800.00		1,800.00
9	Operation of Student Union	3,500.00		
10	Total	\$ 380,300.00	\$	375,800.00
11	From Collections	110,000.00		110,000.00

402—Fairmont State Teachers College

Acct. No. 321

1	Personal Services, including			
2	Salary of President	\$ 142,000.00	\$	142,000.00
3	Current Expenses	15,000.00		15,000.00
4	Repairs and Alterations	4,000.00		4,000.00
5	Equipment	4,000.00		4,000.00
6	Total	\$ 165,000.00	\$	165,000.00
7	From Collections	30,000.00		30,000.00
8	To be expended if and as di-			
9	rected by the Board of Public			
10	Works, with the approval of			
11	the Attorney General, for the			
12	acquisition of minerals and			
13	mineral rights to protect			
14	buildings, campus and ath-			
15	letic field of Fairmont State			
16	Teachers College. To be avail-			
17	able for expenditure at any			

- 18 time within the biennium ----\$ 34,669.50
 19 The unexpended part of the ap-
 20 propriation made for this pur-
 21 pose by Chapter 6, Acts of the
 22 Legislature, Regular Session,
 23 1941, is hereby retired.

403—*Glenville State Teachers College*

Acct. No. 322

1	Personal Services, including			
2	Salary of President.....	\$ 70,000.00	\$	70,000.00
3	Current Expenses	12,500.00		12,500.00
4	Repairs and Alterations.....	6,000.00		5,000.00
5	Equipment	3,000.00		3,000.00
6	Buildings and Improvements....	4,500.00		
7	Total	\$ 96,000.00	\$	90,500.00
8	From Collections.....	15,000.00		15,000.00

404—*West Liberty State Teachers College*

Acct. No. 323

1	Personal Services, including			
2	Salary of President	\$ 66,250.00	\$	66,250.00
3	Current Expenses	8,500.00		8,500.00
4	Repairs and Alterations.....	2,250.00		2,250.00
5	Equipment	2,500.00		2,500.00
6	Total	\$ 79,500.00	\$	79,500.00
7	From Collections.....	11,000.00		11,000.00

405—*Shepherd State Teachers College*

Acct. No. 324

1	Personal Services, including			
2	Salary of President.....	\$ 62,000.00	\$	62,000.00
3	Current Expenses	11,000.00		11,000.00
4	Repairs and Alterations.....	4,000.00		4,000.00
5	Equipment	3,000.00		3,000.00
6	Total	\$ 80,000.00	\$	80,000.00
7	From Collections.....	12,000.00		12,000.00

- 8 Out of the above appropriation
 9 an amount not to exceed
 10 \$1,000 from the current ex-
 11 pense account may be used
 12 for the purchase of land.

406—*Concord State Teachers College*

Acct. No. 325

1 Personal Services, including		
2 Salary of President	\$ 100,000.00	\$ 96,000.00
3 Current Expenses	15,000.00	15,000.00
4 Repairs and Alterations	4,500.00	4,500.00
5 Equipment	4,000.00	4,000.00
6 Total	\$ 123,500.00	\$ 119,500.00
7 From Collections	30,000.00	30,000.00

407—*West Virginia Institute of Technology*

Acct. No. 327

1 Personal Services, including		
2 Salary of President	\$ 104,000.00	\$ 104,000.00
3 Current Expenses	18,000.00	18,000.00
4 Repairs and Alterations	6,000.00	6,000.00
5 Equipment	10,000.00	10,000.00
6 Total	\$ 138,000.00	\$ 138,000.00
7 From Collections	20,000.00	20,000.00

408—*West Virginia State College*

Acct. No. 328

1 Personal Services, including		
2 Salary of President	\$ 160,000.00	\$ 160,000.00
3 Current Expenses	42,000.00	42,000.00
4 Repairs and Alterations	15,000.00	15,000.00
5 Equipment	11,000.00	11,000.00
6 Extension Service	15,000.00	15,000.00
7 Total	\$ 243,000.00	\$ 243,000.00
8 From Collections	46,000.00	46,000.00

409—*West Virginia State College—4-H Camp for Colored Boys and Girls*

Acct. No. 3289

1	Personal Services	\$	6,000.00	\$	6,000.00
2	Current Expenses		2,500.00		2,500.00
3	Repairs and Alterations.....		1,000.00		1,000.00
4	Equipment		2,000.00		2,000.00
5	Buildings		1,500.00		1,500.00
6	Total	\$	13,000.00	\$	13,000.00

410—*Bluefield State Teachers College*

Acct. No. 329

1	Personal Services, including				
2	Salary of President	\$	70,000.00	\$	70,000.00
3	Current Expenses		14,500.00		14,500.00
4	Repairs and Alterations.....		5,000.00		5,000.00
5	Equipment		5,000.00		5,000.00
6	Library Books—To be expended				
7	subject to the approval of the				
8	State Superintendent of				
9	Schools		10,000.00		5,000.00
10	Total	\$	104,500.00	\$	99,500.00
11	From Collections		12,000.00		12,000.00

411—*Storer College*

Acct. No. 330

1	Total	\$	12,000.00	\$	12,000.00
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420—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1	Personal Services, including				
2	Salary of Superintendent	\$	121,000.00	\$	121,000.00
3	Current Expenses		60,000.00		60,000.00
4	Repairs and Alterations.....		7,400.00		7,400.00
5	Equipment		5,000.00		5,000.00
6	Total	\$	193,400.00	\$	193,400.00
7	Out of the above appropriation				

- 8 an amount not to exceed
 9 \$5,000.00 for each year from
 10 the current expense account
 11 shall be limited to expendi-
 12 tures for boilers or boiler
 13 house.

421—*West Virginia Schools for the Colored Deaf and Blind*

Acct. No. 334

1	Personal Services, including			
2	Salary of Superintendent	\$ 20,000.00	\$	20,000.00
3	Current Expenses	12,000.00		12,000.00
4	Repairs and Alterations	3,200.00		3,400.00
5	Equipment	1,500.00		1,500.00
6	Total	\$ 36,700.00	\$	36,900.00

44—*Department of Archives and History*

Acct. No. 340

1	Personal Services, including			
2	Salary of State Archivist and			
3	Historian	8,000.00		8,000.00
4	Current Expenses	2,000.00		2,000.00
5	Equipment	1,000.00		1,000.00
6	Total	\$ 11,000.00	\$	11,000.00

45—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$ 5,000.00	\$	5,000.00
2	Current Expenses	1,000.00		1,000.00
3	Equipment	500.00		500.00
4	Books and Periodicals	3,500.00		3,500.00
5	Total	\$ 10,000.00	\$	10,000.00

CHARITIES AND CORRECTION

460—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services, including			
2	Salary of Superintendent	\$ 45,000.00	\$	45,000.00

3	Current Expenses	50,000.00	50,000.00
4	Repairs and Alterations	5,000.00	5,000.00
5	Equipment	5,000.00	5,000.00
6	Total	\$ 105,000.00	\$ 105,000.00
7	From Collections	11,250.00	11,250.00
8	Out of the appropriation for		
9	Personal Services, \$600.00		
10	shall be paid each year in		
11	monthly installments to each		
12	of the following persons:		
13	Lelia Arnett, widow of U. G.		
14	Arnett, killed by an inmate		
15	while on duty.		
16	George A. Barnard, employee,		
17	permanently disabled by an		
18	inmate while on duty.		

461—West Virginia Industrial School for Colored Boys

Acct. No. 371

1	Personal Services, including		
2	Salary of Superintendent	\$ 12,000.00	\$ 12,000.00
3	Current Expenses	15,000.00	15,000.00
4	Repairs and Alterations	2,000.00	2,000.00
5	Equipment	1,000.00	1,000.00
6	Total	\$ 30,000.00	\$ 30,000.00
7	From Collections	4,500.00	4,500.00

462—West Virginia Industrial Home for Girls

Acct. No. 372

1	Personal Services, including		
2	Salary of Superintendent	\$ 33,000.00	\$ 33,000.00
3	Current Expenses	35,000.00	35,000.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	2,000.00	2,000.00
6	Total	\$ 74,000.00	\$ 74,000.00
7	From Collections	11,250.00	11,250.00

463—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services, including			
2	Salary of Superintendent	\$ 6,000.00	\$	6,000.00
3	Current Expenses	6,000.00		6,000.00
4	Repairs and Alterations	1,000.00		1,000.00
5	Equipment	500.00		500.00
6	Total	\$ 13,500.00	\$	13,500.00
7	From Collections	1,200.00		1,200.00

47—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services, including			
2	Salary of Warden	\$ 155,000.00	\$	155,000.00
3	Current Expenses	180,000.00		180,000.00
4	Repairs and Alterations	7,000.00		7,000.00
5	Equipment	4,000.00		4,000.00
6	Total	\$ 346,000.00	\$	346,000.00
7	Out of the appropriation for			
8	Personal Services, \$600.00			
9	shall be paid each year in			
10	monthly installments to Ray			
11	Estep, permanently injured			
12	while employed in the peni-			
13	tentiary coal mine.			

470—*West Virginia Penitentiary—Medium Security Prison*

Acct. No. 376

1	Personal Services	\$ 52,500.00	\$	52,500.00
2	Current Expenses	75,000.00		75,000.00
3	Repairs and Alterations	5,000.00		5,000.00
4	Equipment	7,000.00		3,000.00
5	Street Paving	10,000.00		
6	Buildings (Dairy Barn)	7,500.00		
7	Total	\$ 157,000.00	\$	135,500.00

49—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services, including			
2	Salary of Superintendent	\$ 11,000.00	\$	11,000.00
3	Current Expenses	14,500.00		14,500.00
4	Repairs and Alterations	2,500.00		2,500.00
5	Equipment	1,500.00		1,500.00
6	Total	\$ 29,500.00	\$	29,500.00
7	From Collections	3,600.00		3,600.00

491—*West Virginia Colored Children's Home*

Acct. No. 381

1	Personal Services, including			
2	Salary of Superintendent	\$ 6,000.00	\$	6,000.00
3	Current Expenses	8,500.00		8,500.00
4	Repairs and Alterations	1,500.00		1,500.00
5	Equipment	1,000.00		1,000.00
6	Total	\$ 17,000.00	\$	17,000.00

493—*West Virginia Training School*

Acct. No. 383

1	Personal Services, including			
2	Salary of Superintendent	\$ 17,000.00	\$	17,000.00
3	Current Expenses	17,500.00		17,500.00
4	Repairs and Alterations	7,000.00		3,000.00
5	Equipment	3,000.00		3,000.00
6	Water System	5,000.00		
7	Total	\$ 49,500.00	\$	40,500.00
8	From Collections	4,500.00		4,500.00

HEALTH AND WELFARE

520—*State Health Department and Public Health Council*

Acct. No. 400

1	Salary of Commissioner	\$ 5,000.00	\$	5,000.00
2	Other Personal Services	140,000.00		140,000.00
3	Current Expenses	32,000.00		32,000.00

4	Equipment	3,420.00	3,420.00
5	Cancer Control & Treatment.....	50,000.00	50,000.00
6	Total	\$ 230,420.00	\$ 230,420.00
7	From Collections	22,000.00	22,000.00

521—State Water Commission

Acct. No. 401

1	Personal Services	\$ 1,500.00	\$ 1,500.00
2	Current Expenses	1,000.00	1,000.00
3	West Virginia's Contribution to		
4	Potomac Basin Interstate		
5	Commission	1,800.00	1,800.00
6	Total	\$ 4,300.00	\$ 4,300.00

522—State Committee of Barbers and Beauticians

Acct. No. 402

1	Personal Services, including		
2	Salary of Director	\$ 14,000.00	\$ 14,000.00
3	Current Expenses	9,000.00	9,000.00
4	Total	\$ 23,000.00	\$ 23,000.00
5	From Collections	23,000.00	23,000.00

530—Department of Public Assistance

Acct. No. 641

1	Public Assistance Grants		
2	(Classified Aid)	\$ 3,500,000.00	\$ 3,500,000.00
3	General Relief Grants:		
4	Aid to Crippled Children	300,000.00	300,000.00
5	Adult Physical Rehabilitation..	65,000.00	65,000.00
6	Conservation of Vision and		
7	Prevention of Blindness	10,000.00	10,000.00
8	General Medical and Hos-		
9	pitalization	345,000.00	345,000.00
10	Hospitalization of Needy Tu-		
11	bercular	360,000.00	360,000.00
12	Child Welfare Services.....	225,000.00	225,000.00
13	Services to War Veterans.....	25,159.00	30,159.00

14 Direct Relief	250,000.00	250,000.00
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15 Total	\$ 5,080,159.00	\$ 5,085,159.00
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16 The totals of the various items
17 of this appropriation shall in-
18 clude costs of administration
19 thereof, including a sum not
20 to exceed \$35,000.00 annually
21 for the administration of the
22 West Virginia Merit System
23 Council. None of the funds so
24 appropriated for administra-
25 tive items of any nature what-
26 soever shall be available for
27 expenditure except and un-
28 less the spending unit comply
29 fully with the provisions of
30 sections 25, 26 and 27, Ar-
31 ticle 5, Chapter 39, Acts of
32 the Legislature, 1939: *Pro-*
33 *vided, however,* That of the
34 total funds, from all sources,
35 state, county and federal, for
36 classified aid and direct re-
37 lief for each fiscal year made
38 available to the Department
39 of Public Assistance for all
40 programs, not more than
41 eight per cent thereof shall
42 be used for the combined
43 overhead expenses of the state
44 and county departments for
45 each such fiscal year. The
46 term "overhead" shall in-
47 clude all "administration"
48 and "service" costs and all
49 other charges and expenses
50 incidental to the distribution
51 of net grants and awards in
52 classified and general relief
53 assistance.

54 The appropriation for Hospital-
 55 ization of Needy Tubercular
 56 shall be expended at the di-
 57 rection of the Public Health
 58 Council, and the administra-
 59 tive costs of the Department
 60 of Public Assistance shall for
 61 this purpose not exceed five
 62 per cent of this item.

· 531—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Salary of Director	\$	3,600.00	\$	3,600.00
2	Other Personal Services.....		4,500.00		4,500.00
3	Current Expenses		2,500.00		3,000.00
4	Equipment		105.00		105.00
5	Total	\$	10,705.00	\$	11,205.00

540—Weston State Hospital

Acct. No. 420

1	Personal Services, including				
2	Salary of Superintendent	\$	175,000.00	\$	175,000.00
3	Current Expenses		200,000.00		200,000.00
4	Repairs and Alterations		5,000.00		5,000.00
5	Equipment		7,000.00		7,000.00
6	Total	\$	387,000.00	\$	387,000.00
7	From Collections.....		34,000.00		38,000.00

540A—Weston State Hospital—Barboursville Unit

Acct. No. 427

1	Personal Services	\$	32,000.00	\$	32,000.00
2	Current Expenses		55,000.00		55,000.00
3	Repairs and Alterations		5,000.00		5,000.00
4	Equipment		5,000.00		5,000.00
5	Special Equipment (Ventilat-				
6	ing System) or to Supple-				
7	ment Current Expenses.....		10,000.00		10,000.00
8	Total	\$	107,000.00	\$	107,000.00

9	<i>From Collections</i>	15,000.00	15,000.00
10	In making this appropriation		
11	the Legislature does not rat-		
12	ify the purchase of this in-		
13	stitution.		

541—*Spencer State Hospital*

Acct. No. 421

1	Personal Services, including		
2	Salary of Superintendent.....\$	70,000.00	\$ 70,000.00
3	Current Expenses	100,000.00	100,000.00
4	Repairs and Alterations.....	7,500.00	7,500.00
5	Equipment	5,000.00	5,000.00
6	Buildings and Lands	5,000.00	
7	Total	\$ 187,500.00	\$ 182,500.00
8	<i>From Collections</i>	23,000.00	23,000.00
9	Out of the appropriations for		
10	Personal Services, \$360.00		
11	shall be paid each year, in		
12	monthly installments to Mar-		
13	tha Burdette, widow of J. M.		
14	Burdette, who died as a result		
15	of injuries received while		
16	performing his duties as a		
17	regular employee of the		
18	state.		

542—*Huntington State Hospital*

Acct. No. 422

1	Personal Services, including		
2	Salary of Superintendent.....\$	90,000.00	\$ 90,000.00
3	Current Expenses	155,000.00	155,000.00
4	Repairs and Alterations.....	5,000.00	5,000.00
5	Equipment	9,500.00	9,500.00
6	Total	\$ 259,500.00	\$ 259,500.00
7	<i>From Collections</i>	110,000.00	110,000.00

543—*Lakin State Hospital*

Acct. No. 423

1	Personal Services, including	
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2	Salary of Superintendent.....	31,000.00	31,000.00
3	Current Expenses	50,000.00	50,000.00
4	Repairs and Alterations	7,000.00	7,000.00
5	Equipment	5,000.00	5,000.00
6	Total	\$ 93,000.00	\$ 93,000.00
7	From Collections	14,000.00	14,000.00

544—McKendree Emergency Hospital

Acct. No. 424

1	Personal Services, including		
2	Salary of Superintendent.....\$	13,000.00	\$ 13,000.00
3	Current Expenses	18,000.00	18,000.00
4	Repairs and Alterations	3,000.00	3,000.00
5	Equipment	2,000.00	2,000.00
6	Replacement of Water System..	3,000.00	
7	Total	\$ 39,000.00	\$ 36,000.00
8	From Collections	14,000.00	14,000.00

545—Fairmont Emergency Hospital

Acct. No. 425

1	Personal Services, including		
2	Salary of Superintendent.....\$	23,000.00	\$ 23,000.00
3	Current Expenses	30,000.00	30,000.00
4	Repairs and Alterations	3,000.00	3,000.00
5	Equipment	2,000.00	2,000.00
6	Total	\$ 58,000.00	\$ 58,000.00
7	From Collections	20,000.00	20,000.00

546—Welch Emergency Hospital

Acct. No. 426

1	Personal Services, including		
2	Salary of Superintendent	32,000.00	\$ 32,000.00
3	Current Expenses	25,000.00	25,000.00
4	Repairs and Alterations	5,000.00	5,000.00
5	Equipment	3,000.00	3,000.00
6	Total	\$ 65,000.00	\$ 65,000.00
7	From Collections	24,000.00	24,000.00

548—Hopemont Sanitarium

Acct. No. 430

1 Personal Services, including		
2 Salary of Superintendent.....\$	175,000.00	\$ 175,000.00
3 Current Expenses	205,000.00	205,000.00
4 Repairs and Alterations	12,000.00	12,000.00
5 Equipment	8,000.00	8,000.00
6 Surgery Fund	10,000.00	10,000.00
7 To Remodel Kitchen	20,000.00	
8 Moon's Project—Right-of-Way	500.00	
9 Total	\$ 430,500.00	\$ 410,000.00
10 From Collections	150,000.00	150,000.00

548A—Hopemont Sanitarium—Sweet Springs Unit

Acct. No. 437

1 For the employment of care-		
2 taker and preservation of		
3 property	\$ 10,000.00	\$ 10,000.00
4 In making this appropriation		
5 the Legislature does not rat-		
6 ify the purchase of this in-		
7 stitution.		

549—Pinecrest Sanitarium

Acct. No. 431

1 Personal Services, including		
2 Salary of Superintendent.....\$	215,000.00	\$ 215,000.00
3 Current Expenses	250,000.00	250,000.00
4 Repairs and Alterations	10,000.00	10,000.00
5 Equipment	12,000.00	8,000.00
6 Total	\$ 487,000.00	\$ 483,000.00
7 From Collections	235,000.00	235,000.00

550—Denmar Sanitarium

Acct. No. 432

1 Personal Services, including		
2 Salary of Superintendent.....\$	44,000.00	\$ 44,000.00
3 Current Expenses	53,500.00	53,500.00

4	Repairs and Alterations	5,000.00	5,000.00
5	Equipment	6,000.00	6,000.00
6	Total	\$ 108,500.00	\$ 108,500.00
7	From Collections	36,000.00	36,000.00

West Virginia Foundation for Crippled Children

Acct. No. 433

1	Major Building repairs.....	\$ 30,000.00	
2	To be expended under the		
3	rules and regulations adopted		
4	by the West Virginia Board		
5	of Control for Major Build-		
6	ing repairs as aforesaid. Any		
7	or all of this appropriation		
8	shall be available for expend-		
9	iture within either fiscal year		
10	of the biennium.		

551—*Tuberculosis Field Clinic*

Acct. No. 435

1	Total	\$ 10,000.00	\$ 10,000.00
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552—*Morris Memorial Hospital*

Acct. No. 434

1	Total	\$ 45,000.00	
2	To be expended under rules and		
3	regulations adopted by the		
4	West Virginia Board of Con-		
5	trol for buildings, and road-		
6	ways. This appropriation is		
7	to be available for expendi-		
8	ture either year of the		
9	biennium.		

553—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 7,200.00	\$ 7,200.00
3	Current Expenses	4,000.00	4,000.00

4	Repairs and Alterations	1,300.00	1,000.00
5	Equipment	500.00	500.00
6	Total	\$ 13,000.00	\$ 12,700.00
7	From Collections	7,000.00	7,000.00

BUSINESS AND INDUSTRIAL RELATIONS

57—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1	Salary of Commissioner	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	55,000.00	55,000.00
3	Current Expenses	32,000.00	32,000.00
4	Equipment	2,500.00	2,500.00
5	Total	\$ 94,500.00	\$ 94,500.00

59—Department of Mines

Acct. No. 460

1	Salary of Chief	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	260,000.00	260,000.00
3	Current Expenses	90,000.00	90,000.00
4	Repairs and Alterations	10,000.00	10,000.00
5	Equipment	15,000.00	15,000.00
6	Total	\$ 381,000.00	\$ 381,000.00

600—Public Service Commission

Acct. No. 470

1	Salaries of Three Members of		
2	the Public Service Commis-		
3	sion		
4	Total	\$ 13,500.00	\$ 13,500.00

601—Public Service Commission

Acct. No. 6617

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 125,000.00	\$ 125,000.00
2	Current Expenses	25,000.00	25,000.00

3	Equipment	3,000.00	3,000.00
4	Total	\$ 153,000.00	\$ 153,000.00
5	The total amount of this appro-		
6	piation shall be paid from		
7	Special Revenue Fund out of		
8	collections for special license		
9	fees from public service cor-		
10	porations, as provided by law.		
11	Out of the above appropriation,		
12	not more than \$800.00 may be		
13	expended annually for the		
14	maintenance of the office of		
15	the General Solicitor of the		
16	National Association of Rail-		
17	roads and Utilities Commis-		
18	sioners, and for representa-		
19	tion in matters before the		
20	Interstate Commission and		
21	other federal departments at		
22	Washington, D. C.		
23	Out of the above appropriation,		
24	\$1,800.00 may be expended		
25	annually to cooperate with		
26	the U. S. Geological Survey in		
27	stream-flow measurement.		

602—Public Service Commission—Motor Carrier Division

Acct. No. 6624

1 All special license fees or other
2 receipts collected for or by the
3 Public Service Commission
4 pursuant to and in the exer-
5 cise of regulatory authority
6 over motor vehicle carriers,
7 to be paid into the special
8 fund designated "Public Serv-
9 ice Commission Motor Carrier
10 Fund", as authorized by law,
11 are hereby appropriated for

12 the purpose of paying the ex-
 13 penses of the commission, sal-
 14 aries of the commissioners,
 15 and the salaries, compensa-
 16 tion, costs and expenses of its
 17 employees in administering
 18 such law, and for the expendi-
 19 tures by the Public Service
 20 Commission for the admini-
 21 stration of such regulation, as
 22 authorized and provided by
 23 law: *Provided, however, That*
 24 no expenditure shall be made
 25 from moneys hereby appro-
 26 priated except in compliance
 27 with and in conformity to the
 28 provisions of Chapter 39, Acts
 29 of the Legislature, Regular
 30 Session, one thousand nine
 31 hundred thirty-nine, and the
 32 Public Service Commission
 33 shall, by proper minute order,
 34 file with the Director of the
 35 Budget on July 1, 1943, an ex-
 36 act schedule of all encum-
 37 brances against the Public
 38 Service Commission — Motor
 39 Carrier Division Fund as of
 40 that date, and shall thereafter
 41 submit to the Director of the
 42 Budget for approval all pay-
 43 rolls, requisitions for pur-
 44 chases, contracts and other
 45 prospective encumbrances.

61—*Department of Banking*

Acct. No. 480

1 Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services	22,000.00	22,000.00
3 Current Expenses	14,000.00	14,000.00

4	Equipment	750.00	750.00
5	Total	\$ 42,750.00	\$ 42,750.00
6	From Collections	20,000.00	20,000.00

63—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM THE WORKMEN'S COMPENSATION FUND

1	Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	260,000.00	260,000.00
3	Current Expenses	110,000.00	110,000.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	9,000.00	9,000.00
6	Total	\$ 389,000.00	\$ 389,000.00
7	There is hereby authorized to be		
8	paid out of the appropriation		
9	for Current Expenses the		
10	amount necessary for the		
11	premiums on bonds given by		
12	the State Treasurer and bond		
13	custodian for the protection		
14	of the Compensation Fund.		

63A—*Workmen's Compensation Commission: Silicosis*

Acct. No. 905

TO BE PAID FROM THE WORKMEN'S COMPENSATION SILICOSIS FUND

1	To administer the Workmen's		
2	Compensation Silicosis Fund		
3	as provided in Chapter 79,		
4	Acts of Legislature, Regular		
5	Session, 1935, and to pay		
6	premiums on bonds given by		
7	the State Treasurer as cus-		
8	todian of the fund.		
9	Total	\$ 20,000.00	\$ 20,000.00

64—*West Virginia Liquor Control Commission*

Acct. No. 6676

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salaries of Three Members of

2	the Commission	\$ 18,000.00	\$ 18,000.00
3	Other Personal Services.....	230,000.00	230,000.00
4	Current Expenses	31,000.00	31,000.00
5	Contingent Fund	45,000.00	45,000.00
6	Total	\$ 324,000.00	\$ 324,000.00

7 The total amount of this appro-
 8 priation shall be paid from
 9 the Special Revenue Fund out
 10 of liquor revenues.

11 The contingent fund appropri-
 12 ation of \$45,000.00 annually
 13 shall be expended only for
 14 the purpose of establishment
 15 and maintenance of additional
 16 liquor warehouses in the
 17 event the Office of Defense
 18 Transportation restricts de-
 19 livery of liquor from central
 20 warehouses.

21 The above appropriation does
 22 not include the salaries of
 23 store personnel, store inspec-
 24 tors, store operating expenses
 25 or equipment, purchase of
 26 liquor, or equipment for ad-
 27 ministration offices. There is
 28 hereby appropriated from
 29 liquor revenues, in addition to
 30 the above appropriation, the
 31 necessary amounts to pay sal-
 32 aries of store personnel, store
 33 inspectors, store operating ex-
 34 penses, purchase of liquor and
 35 transportation thereof, and
 36 purchase of administration
 37 equipment: *Provided, how-*
 38 *ever,* That no expenditures
 39 shall be made from moneys
 40 hereby appropriated, except
 41 in compliance with and in

42 conformity to the provisions
 43 of Chapter 39, Acts of the
 44 Legislature, Regular Session,
 45 one thousand nine hundred
 46 thirty-nine. The State Liquor
 47 Control Commission shall, by
 48 proper minute order, file with
 49 the Director of the Budget, on
 50 July 1, 1943, an exact schedule
 51 of all encumbrances against
 52 the liquor revenues as of that
 53 date, and shall thereafter
 54 submit to the Director of the
 55 Budget for approval all pay-
 56 rolls, requisitions for pur-
 57 chases, contracts and other
 58 prospective encumbrances.

650—*Racing Commission*

Acct. No. 6082

1	To pay per diem of Members			
2	and Other General Expenses.			
3	Total	\$	18,500.00	\$ 18,500.00
4	From Collections		18,500.00	18,500.00

651—*Commission on Interstate Cooperation*

Acct. No. 4727

1	Total	\$	3,500.00	\$ 3,500.00
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652—*Board of Aeronautics*

Acct. No. 6086

1	Total	\$	12,500.00	\$ 12,500.00
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2 The total of this appropriation
 3 shall be available for oper-
 4 ation of the Board of Aero-
 5 nautics and for state aid to
 6 county and municipal air-
 7 ports.

653—*West Virginia Publicity Commission*

Acct. No. 485

- 1 This account is hereby stricken
- 2 and no funds therefor shall be
- 3 expended from any state
- 4 moneys whatsoever.

654—*West Virginia Planning Commission*

Acct. No. 4729

- 1 To be expended in accordance
- 2 with Chapter 79, Acts of the
- 3 Legislature, 1941 -----\$ 2,500.00 \$ 2,500.00

HIGHWAYS

670—*State Road Commission: General Administration
and Engineering*

Acct. No. 670

TO BE PAID FROM THE STATE ROAD FUND

1	Salary of Commissioner -----	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services -----	385,000.00	385,000.00
3	Current Expenses -----	50,000.00	50,000.00
4	Equipment -----	10,000.00	10,000.00
5	Materials and Supplies -----	75,000.00	75,000.00
6	Total -----	\$ 526,000.00	\$ 526,000.00
7	In addition to the foregoing		
8	appropriations and any other		
9	appropriations or claims, as		
10	authorized by this act to be		
11	paid from the state road fund,		
12	the balance or residue of the		
13	annual receipts of the state		
14	road fund are hereby appro-		
15	priated for the payment of in-		
16	terest on and principal of out-		
17	standing road bonds, for main-		
18	tenance, construction and		
19	reconstruction of state roads,		
20	in accordance with the pro-		

visions of article three, chapter seventeen of the code of West Virginia, 1931, as amended: *Provided, however,* That no funds from the blanket appropriation in lines 7 to 23, inclusive, shall be available for expenditure except in compliance with and in conformity to the provisions of Chapter 39, Acts of the Legislature, Regular Session, one thousand nine hundred thirty-nine. The State Road Commission shall, by proper minute order, file with the Director of the Budget, on July 1, 1943, an exact schedule of all encumbrances against the state road fund as of that date, and shall thereafter submit to the Director of the Budget for approval all payrolls, requisitions for purchases, contracts, right-of-way acquisitions, debt service requirement and other prospective encumbrances: *Provided further,* That payments of interest on and principal of outstanding road bonds shall have precedence over expenditures for maintenance, construction and reconstruction of state roads.

672—State Road Commission

Acct. No. 6406

TO BE PAID FROM GENERAL REVENUE FUND

1 Primary Roads	\$ 1,200,000.00	\$ 1,450,000.00
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2	Secondary Roads	1,800,000.00	2,300,000.00
3	Total	\$ 3,000,000.00	\$ 3,750,000.00
4	To supplement the State Road		
5	Fund for maintenance and re-		
6	construction of primary and		
7	secondary roads, including co-		
8	operation with the federal		
9	government, or any of its		
10	agencies.		
11	To be transferred to the State		
12	Road Fund upon order of the		
13	Board of Public Works.		

AGRICULTURE

70—Department of Agriculture

Acct. No. 510

1	Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	90,000.00	90,000.00
3	Current Expenses	65,000.00	65,000.00
4	Equipment	5,000.00	5,000.00
5	For the eradication and pre-		
6	vention of livestock diseases		
7	—To be expended at the		
8	direction of the Commissioner		
9	of Agriculture	65,000.00	65,000.00
10	Total	\$ 231,000.00	\$ 231,000.00
11	From Collections	34,800.00	34,800.00

70A—Department of Agriculture: Soil Conservation

Acct. No. 510

1	Total	\$ 15,000.00	\$ 15,000.00
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71—Department of Agriculture: Agricultural Awards

Acct. No. 515

1	Incorporated County and Dis-		
2	trict Fairs and Regional 4-H		
3	Fairs	\$ 9,300.00	\$ 9,300.00
4	State Agricultural Fairs and		

5	Agricultural and Industrial		
6	Exhibits	5,000.00	5,000.00
7	Total	\$ 14,300.00	\$ 14,300.00
8	To be expended at the direction		
9	of the Commissioner of Agri-		
10	culture for awards to prize		
11	winners at agricultural fairs		
12	and exhibits.		

CONSERVATION AND DEVELOPMENT

730—West Virginia Geological Survey

Acct. No. 520

1	Personal Services, including		
2	Salary of State Geologist	\$ 35,000.00	\$ 35,000.00
3	Current Expenses	15,000.00	15,000.00
4	Equipment	2,500.00	2,500.00
5	Total	\$ 52,500.00	52,500.00
6	From Collections	2,000.00	2,000.00
7	Of the above appropriation for		
8	Current Expenses not more		
9	than \$3,200.00 may be used		
10	each year of the biennium to		
11	cooperate with the United		
12	States Geological Survey in		
13	stream-flow measurement.		

731—Conservation Commission: General Administration, Division of Game, Fish and Forestry

Acct. No. 6612

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Commissioner	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	26,500.00	26,500.00
3	Current Expenses	26,500.00	26,500.00
4	Equipment	1,000.00	1,000.00
5	Total	\$ 59,000.00	\$ 59,000.00
6	The total amount of this appro-		
7	priation shall be paid from		

8 the Special Revenue fees col-
 9 lected by the Conservation
 10 Commission.

11 This appropriation is for admin-
 12 istration purposes only and
 13 shall not be construed as a
 14 limit upon the expenditures
 15 from the Special Revenue
 16 collections of said depart-
 17 ment, except for administra-
 18 tion.

732—*Conservation Commission: Division of Game,
 Fish and Forestry*

Acct. No. 521

1 Personal Services	\$ 20,000.00	\$ 20,000.00
2 Current Expenses	6,100.00	6,100.00
3 Equipment	2,180.00	2,180.00
4 Buildings	800.00	800.00
5 White Pine Blister Rust Con- 6 trol	5,000.00	5,000.00
7 For Soil Conservation and Pre- 8 vention of Soil Erosion, any 9 part of which may be used 10 for the purpose of matching 11 Federal Funds	7,500.00	7,500.00
12 For Propagation and Stocking 13 of Streams with Fish	17,500.00	17,500.00
14 Total	\$ 59,080.00	\$ 59,080.00

733—*Conservation Commission: Division of State Parks*

Acct. No. 522

1 Personal Services	\$ 45,000.00	\$ 45,000.00
2 Current Expenses	30,000.00	30,000.00
3 Repairs and Alterations	20,000.00	20,000.00
4 Equipment	15,000.00	15,000.00
5 Major Building Repairs and 6 Land Improvement	17,500.00	17,500.00
7 Total	\$ 127,500.00	\$ 127,500.00
8 From Collections	40,000.00	40,000.00

734—*Clarke-McNary*

Acct. No. 522

1	For cooperation with the			
2	United States Department of			
3	Agriculture in fire preven-			
4	tion and control.			
5	Total	\$	60,000.00	\$ 60,000.00

740—*Droop Mountain Battlefield Monument*

Acct. No. 5609

1	For maintenance of Historical			
2	Monument.			
3	Total	\$	100.00	\$ 100.00

741—*Point Pleasant Battle Monument Commission*

Acct. No. 5619

1	Maintenance of Historical Mon-			
2	ument	\$	1,000.00	\$ 1,000.00
3	Repairs to Monument and			
4	Grounds		1,000.00	
5	Total	\$	2,000.00	\$ 1,000.00

742—*Rumseyan Society*

Acct. No. 5629

1	For maintenance of Historical			
2	Monument.			
3	Total	\$	100.00	\$ 100.00

743—*Morgan Morgan Memorial*

Acct. No. 5639

1	For maintenance of Historical			
2	Monument.			
3	Total	\$	25.00	\$ 25.00

744—*Grafton G. A. R. Post*

Acct. No. 5649

1	In aid of Memorial Day Patri-			
2	otic Exercises.			
3	Total	\$	500.00	\$ 500.00

- 4 To be expended subject to the
 5 approval of the Board of
 6 Public Works upon presenta-
 7 tion of satisfactory plans by
 8 Grafton G. A. R. Post, Amer-
 9 ican Legion, Veterans of
 10 Foreign Wars and Sons of
 11 Veterans.

PROTECTION

770—Department of Public Safety

Acct. No. 570

1 Salary of Superintendent	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services	430,000.00	430,000.00
3 Current Expenses	325,000.00	325,000.00
4 Repairs and Alterations.....	13,500.00	13,500.00
5 Equipment	25,000.00	25,000.00
6 Total	\$ 799,500.00	\$ 799,500.00

7 This appropriation shall include
 8 all expenditures for the De-
 9 partment of Public Safety,
 10 including radio division and
 11 enforcement of traffic.

12 Out of the appropriation for
 13 "Current Expenses" there
 14 shall be expended \$184,620.00
 15 for each year of the biennium
 16 for subsistence only for of-
 17 ficers and enlisted men.

771—Adjutant General: State Militia

Acct. No. 580

1 Salary of Adjutant General	\$ 5,000.00	\$ 5,000.00
2 Other Personal Services	7,770.00	7,770.00
3 Current Expenses	35,000.00	35,000.00
4 Repairs and Alterations	4,000.00	4,000.00
5 Equipment	2,000.00	2,000.00
6 Compensation of Commanding 7 Officers, Clerical Services and		

8	Care of Property.....	20,000.00	20,000.00
9	Total	\$ 73,770.00	\$ 73,770.00
10	Out of the above appropriations		
11	there may be expended a sum		
12	sufficient to maintain the		
13	West Virginia State Guard		
14	during the absence of the Na-		
15	tional Guard.		
16	From the above appropriation		
17	there may be paid a sum not		
18	to exceed \$3,000.00 to Ser-		
19	geant Thurman C. Seckman,		
20	a member of the State Guard,		
21	injured in line of duty in		
22	Harrison County; and not to		
23	exceed the sum of \$700.00 to		
24	the United States Govern-		
25	ment in payment of such		
26	sums as may be found to be		
27	due in final settlement of na-		
28	tional guard accounts.		

772—State Council of Defense

Acct. No. 581

1	Personal Services	\$ 40,000.00	\$ 40,000.00
2	Current Expenses	15,500.00	13,500.00
3	Equipment	5,000.00	1,000.00
4	Total	\$ 60,500.00	\$ 54,500.00

773—Auditor's Office: Fire Marshal

Acct. No. 6605

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 18,000.00	\$ 18,000.00
2	Current Expenses	6,000.00	6,000.00
3	Equipment	650.00	650.00
4	Total	\$ 24,650.00	\$ 24,650.00

5 The total amount of this appro-
6 priation shall be paid from

- 7 the Special Revenue collec-
 8 tions of special tax of $\frac{1}{2}$ of
 9 one per cent of fire insurance
 10 companies premiums as pro-
 11 vided by the Code of West
 12 Virginia, 1931.

775—*Fire Insurance*

Acct. No. 591

- 1 To be expended under the rules
 2 and regulations adopted by
 3 the Board of Control to pay
 4 fire insurance premiums on
 5 buildings and contents of
 6 State Institutions: *Provided,*
 7 *however, That* insurance
 8 agencies in any one county
 9 shall not receive more than
 10 10% of this appropriation.
 11 Total\$ 30,000.00 \$ 30,000.00

780—*State Board of Law Examiners*

Acct. No. 6005

- 1 To pay the per diem of mem-
 2 bers and other general ex-
 3 penses.
 4 Total\$ 1,500.00 \$ 1,500.00

781—*State Board of Examiners of Accountants*

Acct. No. 6007

- 1 To pay the per diem of mem-
 2 bers and other general ex-
 3 penses.
 4 Total\$ 1,000.00 \$ 1,000.00
 5 *From Collections* 1,000.00 1,000.00

782—*State Athletic Commission*

Acct. No. 6017

- 1 To pay the per diem of mem-

2	bers and other general ex-			
3	penses.			
4	Total	\$	3,500.00	\$ 3,500.00
5	From Collections		3,500.00	3,500.00

783—State Board of Examiners of Registered Nurses

Acct. No. 6044

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	4,000.00	\$ 4,000.00
4	From Collections		4,000.00	4,000.00

784—State Board of Dental Examiners

Acct. No. 6045

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	1,000.00	\$ 1,000.00
4	From Collections		1,000.00	1,000.00

785—State Board of Pharmacy

Acct. No. 6046

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	5,000.00	\$ 5,000.00
4	From Collections		5,000.00	5,000.00

786—State Board of Osteopathy

Acct. No. 6047

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	500.00	\$ 500.00
4	From Collections		500.00	500.00

787—State Board of Optometry

Acct. No. 6048

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	1,500.00	\$ 1,500.00
4	From Collections		1,500.00	1,500.00

788—*State Board of Embalmers and Funeral Directors*

Acct. No. 6049

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	5,500.00	\$ 5,500.00
4	From Collections		5,500.00	5,500.00

789—*State Board of Registration for Professional Engineers*

Acct. No. 6068

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	4,000.00	\$ 4,000.00
4	From Collections		4,000.00	4,000.00

790—*State Board of Examiners for Architects*

Acct. No. 6069

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	2,000.00	\$ 2,000.00
4	From Collections		2,000.00	2,000.00

791—*State Board of Examiners for Veterinarians*

Acct. No. 6076

1	To pay the per diem of members			
2	and other general expenses.			
3	Total	\$	500.00	\$ 500.00
4	From Collections		500.00	500.00

THE FOLLOWING SUPPLEMENTAL APPROPRIATIONS
SHALL BE AVAILABLE FOR EXPENDITURE UPON
DATE OF PASSAGE

151—*Auditor's Office: Land Department*

Acct. No. 704

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	To supplement the 1942-43		
2	appropriation:		
3	Personal Services	\$	27,000.00

362—*State Board of Education: Rehabilitation Division*

Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND

- 1 To supplement the 1942-43
- 2 appropriation:
- 3 Current Expenses\$ 4,000.00

371—*Department of Education—Hot Lunches*

Acct. No. 705

TO BE PAID FROM THE GENERAL SCHOOL FUND SUPPLEMENTARY
FOR 1942-43

- 1 Continuation of this year's
- 2 School Lunch—estimate 600
- 3 schools, 40 days\$ 18,000.00

38—*Teachers' Retirement Board*

Acct. No. 6409

- 1 To supplement the 1942-43
- 2 appropriation:
- 3 Employer's Accumulation Fund
- 4 —To Match Contribution of
- 5 Members\$ 1,030,000.00

400—*Potomac State School of West Virginia University*

Acct. No. 315

- 1 The amount appropriated
- 2 "From Collections" for the
- 3 fiscal year 1942-43 is hereby
- 4 reduced from \$20,000.00 to
- 5 \$17,000.00 for the said fiscal
- 6 year.

401—*Marshall College*

Acct. No. 320

- 1 The amount appropriated
- 2 "From Collections" for the
- 3 fiscal year 1942-43 is hereby
- 4 reduced from \$150,000.00 to

- 5 \$130,000.00 for the said fiscal
6 year.

402—*Fairmont State Teachers College*

Acct. No. 321

- 1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$45,000.00 to
5 \$37,500.00 for the said fiscal
6 year.

402—*Fairmont State Teachers College*

Acct. No. 321

- 1 To supplement the 1942-43
2 appropriation:
3 To Complete and Equip Physi-
4 cal Education Building \$ 5,083.00

403—*Glenville State Teachers College*

Acct. No. 322

- 1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$27,500.00 to
5 \$21,250.00 for the said fiscal
6 year.

404—*West Liberty State Teachers College*

Acct. No. 323

- 1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$18,000.00 to
5 \$14,500.00 for the said fiscal
6 year.

405—*Shepherd State Teachers College*

Acct. No. 324

- 1 The amount appropriated

2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$16,500.00 to
5 \$14,250.00 for the said fiscal
6 year.

406—*Concord State Teachers College*

Acct. No. 325

1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$42,500.00 to
5 \$36,250.00 for the said fiscal
6 year.

407—*West Virginia Institute of Technology*

Acct. No. 327

1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$30,000.00 to
5 \$24,750.00 for the said fiscal
6 year.

407—*West Virginia Institute of Technology*

Acct. No. 327

1 Appropriation for fiscal year
2 1942-43:
3 To Complete and Equip Indus-
4 trial Arts Building \$ 15,000.00

408—*West Virginia State College*

Acct. No. 328

1 The amount appropriated
2 "From Collections" for the
3 fiscal year 1942-43 is hereby
4 reduced from \$60,000.00 to
5 \$55,000.00 for the said fiscal
6 year.

409—*Bluefield State Teachers College*

Acct. No. 329

- 1 The amount appropriated
- 2 "From Collections" for the
- 3 fiscal year 1942-43 is hereby
- 4 reduced from \$16,000.00 to
- 5 \$13,500.00 for the said fiscal
- 6 year.

420—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

- 1 Appropriation for fiscal year
- 2 1942-43:
- 3 Fire Protection and Major
- 4 Building Repairs\$ 13,000.00

470—*West Virginia Penitentiary: Medium
Security Prison*

Acct. No. 376

- 1 To supplement the 1942-43
- 2 appropriations:
- 3 Personal Services\$ 5,000.00
- 4 Current Expenses 10,500.00

543—*Lakin State Hospital*

Acct. No. 423

- 1 To supplement the 1942-43
- 2 appropriation:
- 3 Current Expenses\$ 5,000.00

548A—*Hopemont Sanitarium: Sweet Springs Unit*

Acct. No. 437

- 1 For employment of caretaker,
- 2 preservation of property, and
- 3 transportation of patients and
- 4 property\$ 25,000.00
- 5 In making this appropriation
- 6 the Legislature does not ratify
- 7 the purchase of this institu-
- 8 tion.

549—*Pinecrest Sanitarium*

Acct. No. 431

- 1 To supplement the 1942-43
- 2 appropriation:
- 3 Equipment\$ 652.02
- 4 This is to reimburse this Insti-
- 5 tution for an amount received
- 6 from sale of old equipment,
- 7 which amount was deposited
- 8 to General Revenue Fund.

549—*Pinecrest Sanitarium*

Acct. No. 431

- 1 The amount appropriated
- 2 "From Collections" for the
- 3 fiscal year 1942-43 is hereby
- 4 reduced from \$235,000.00 to
- 5 \$210,000.00 for the said fiscal
- 6 year.

63—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM THE WORKMEN'S COMPENSATION FUND

- 1 To supplement the 1942-43 ap-
- 2 propriations:
- 3 Personal Services\$ 10,000.00
- 4 Repairs and Alterations 3,000.00
- 5 Total\$ 13,000.00

63A—*Workmen's Compensation Commission: Silicosis*

Acct. No. 905

TO BE PAID FROM THE WORKMEN'S COMPENSATION SILICOSIS FUND

- 1 To supplement the 1942-43 ap-
- 2 propriation\$ 4,250.00

770—*Department of Public Safety*

Acct. No. 570

- 1 To supplement the 1942-43 ap-

2 propriation:

3 Repairs and Alterations \$ 426.20

772—State Council of Defense

Acct. No. 581

1 Appropriation for the fiscal year

2 1942-43:

3 Personal Services \$ 9,000.00

Sec. 2. *Awards for Claims Against the State.*—Appropriations to pay awards for claims against the state as approved and certified by the State Court of Claims are for the remainder of the fiscal year 1942-43, and to remain in effect until June 30, 1945.

Claims Versus State Tax Commissioner

TO BE PAID FROM THE GENERAL REVENUE FUND

1 Bailey, B. D. & Sons	\$	243.28
2 Blair Willison Company, Inc.		570.91
3 Blair Willison Company, Inc.		603.79
4 Elliott Brokerage Company		692.32
5 Leggett, C. W. & Company		565.64
6 United Brokerage Company.....		14.29
7 Total	\$	2,690.23

Claims Versus State Conservation Commission

TO BE PAID FROM THE GENERAL REVENUE FUND

1 Sovine, N. H.	\$	85.00
2 Tomich, Louis		31.20
3 Total	\$	116.20

Claim Versus State Conservation Commission

TO BE PAID FROM APPROPRIATION APPEARING UNDER ITEM DESIGNATED

"734—Clarke-McNary

Acct. No. 522"

1 Fleet Bailey	\$	2,500.00
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Claims Versus State Board of Control

TO BE PAID FROM THE GENERAL REVENUE FUND

1 Chapman, W. W. & Mae	\$	600.00
2 Lynch, Max G.		60.17
3 Total	\$	660.17

Claims Versus State Auditor

TO BE PAID FROM THE GENERAL REVENUE FUND

1 Lively, Charles	\$	3,041.33
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Claims Versus State Auditor

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 County Court of Brooke County	\$	7,760.09
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Claims Versus State Road Commission

TO BE PAID FROM THE STATE ROAD FUND

1 Adkins, Dewey	\$	411.95
2 Adkins, G. B.		681.35
3 Adkins, Joel H.		798.56
4 Adkins, Walter & B. D. Wilson,		
5 d/b/a Adkins & Wilson		756.89
6 Ashworth, Vernie E.		50.00
7 Aspinall, William H. & Com-		
8 pany, a corporation		50.54
9 Atkinson, Clarence R.		4,000.00
10 Babb, Roy C.		257.00
11 Balsley, George M.		28.92
12 Bennett, C. C.		89.57
13 Biggess, E. R.		8.00
14 Brown, James E.		4,000.00
15 James E. Brown, Adm. of the		
16 Estate of Roxie M. Brown, de-		
17 ceased		2,000.00
18 Braid, William		500.00
19 Broyles, Minnie		50.00
20 Calvert Fire Insurance Com-		
21 pany		154.11
22 Canterbury, Brookie, Admx. of		

23	the Estate of Bert Canterbury,	
24	deceased	1,500.00
25	Carson, Howard	16.69
26	Casto, Harman	40.00
27	Cecil, George B.	900.00
28	Chapman, John	38.50
29	Chesapeake & Ohio Railway	
30	Company	114.35
31	Cobb, Hanna (Mrs.)	7.00
32	Consolidated Engineering Com-	
33	pany	9,750.00
34	Cottle, A. S.	87.62
35	Cottle, Curtis	2,750.00
36	Cox, David	5.00
37	Crabtree, Dock	50.00
38	Damron, Rebecca	50.00
39	Damron, Wayne & Calvert Fire	
40	Insurance Company, a corpo-	
41	ration	343.82
42	Damron, Zillie	100.00
43	Ellis, Rosa	1,500.00
44	Fields, Harry (Harrison)	100.00
45	Finley, M. L.	30.00
46	Frankel, Sylvia B.	9.18
47	Fry, Charles Golden	900.00
48	Garnette, Pauline	1.50
49	Gentry, Joe	14.28
50	Gibson, J. R.	100.00
51	Gibson, Roma	1,000.00
52	Gorrell, Wayne	24.09
53	Griffith, James P.	58.03
54	Gulf Oil Corporation	127.23
55	Halsley, R. L.	3.00
56	Hart, Aubrey	45.14
57	Hash, Tom	179.78
58	Hatfield, Leslie and Hallie, sur-	
59	viving partners of Hatfield,	
60	Harry & Company.....	7,179.91
61	Heiman, Matthew	7.95
62	Hershberger, Edward J.	2,000.00

63 Hicks, A. H. & General Ex-	
64 change Insurance Company....	102.89
65 Hivick, Edwin	4.59
66 Houchins, Ezekiel	125.00
67 Irons, Charles	20.75
68 Irwin, D. C.	1.53
69 Jewell Tea Company	25.00
70 Keeley Construction Company,	
71 a corporation	860.50
72 Keeley Construction Company,	
73 a corporation	1,810.50
74 Kelso, Hugh E.	5.00
75 Kettering Baking Company	8.16
76 Kincaid, Betty Jane, infant	500.00
77 Kincaid, E. W.	50.00
78 Kincaid, Walter Lee, infant	150.00
79 Klages, E. C. (Mrs.)	25.28
80 Kolar, Evan	90.43
81 Loar, G. I.	15.13
82 Love, Harry M.	500.00
83 Lowe, Voss R.	28.10
84 Martin, Arnold L.	40.00
85 Maxwell, Donovan A. (Mrs.)	25.00
86 Mealey, Callie, Admx. of the	
87 Estate of James Clarence	
88 Mealey, deceased	4,000.00
89 Meeks, Lawrence	6.00
90 Minton Chevrolet, Inc.	49.22
91 Morgan, Bill	5.36
92 Mullins, Dairl, infant	1,500.00
93 Mullins, Ira	2,500.00
94 Mullins, Irene, infant	1,500.00
95 Mullins, Rosa	200.00
96 McAllister, J. A. (Mrs.)	26.00
97 McCormick, Walter	95.00
98 McMillion, Roberty Dewey, in-	
99 fant	250.00
100 Nicholson, Gail	18.00
101 O'Ferrell, William (Mrs.)	5.61
102 Orndorff, J. Frank	33.90

103 Pennington, C. B.	10.42
104 Perkins, G. H.	6.53
105 Powell, Margaret B.	19.28
106 Raleigh Steam Laundry	22.30
107 Riggs, A. C.	449.00
108 Riley, L. O.	7.00
109 Roberts, Alfred D. II	400.00
110 Roberts, Alfred D. III, infant ...	1,000.00
111 Rodgers, George	21.63
112 Rollins, W. F., and the Home	
113 Insurance Company of New	
114 York	248.92
115 Sarver Garage	13.52
116 Shingler Meat Company	69.37
117 Silar, Grady	65.00
118 Smith, John S.	35.00
119 Smith, L. G.	5.00
120 Smith, Ora	15.91
121 Snodgrass, A. R.	47.86
122 Spencer, J. D. (Mrs.)	18.36
123 Spencer, J. H.	20.00
124 Spencer, Sarah	28.93
125 Steele, L. M.	10.20
126 Strother, W. L.	53.53
127 Swiger, Harry (Mrs.)	15.30
128 Thompson, Elmo H.	25.00
129 Valley Camp Store Company, a	
130 corporation	4,500.00
131 Valvoline Oil Company	32.75
132 Vandevender, S. G.	50.00
133 Wildman, Ray, Adm. of the	
134 Estate of H. L. Wildman, de-	
135 ceased	5,000.00
136 Williams, Hughie A.	278.64
137 Walker, C. J.	39.40
138 Ward, Arzana M.	50.00
139 Arnett, Besse D.	22.50
140 Arnold, W. E.	27.88
141 Ashenhardt, E. U.	7.60
142 Bennett, Jacob F.	1,248.00

143	(Payable in monthly install-	
144	ments of \$52.00 each for the	
145	biennium 1943-45).	
146	Bobbitt, J. S.	22.97
147	Bolby, Joe M., Company	250.00
148	Bolyard, Dayton	31.42
149	Cain, James & Company	5,500.00
150	Deck, Helen Clayton, Guardian	
151	of William Clayton White, in-	
152	fant	53.00
153	Dornon, Freda M., Guardian of	
154	Robert Dornon, infant	1,000.00
155	Dornon, Freda M.	5.00
156	Donovan, J. D. Dr.	108.75
157	Edwards, R. H. Dr.	200.00
158	Geimer, Tessie	250.00
159	Geimer, M. N.	350.00
160	Gore, Jim	75.79
161	Harpold Bros.	92.00
162	Hoover, W. P.	13.77
163	Jones Cornett Company	12.00
164	Kessel, C. R. Dr.	148.75
165	Keyser, W. R.	53.61
166	Lilly, Effie	103.35
167	Lindsey, M. B.	50.00
168	Lude, M. G.	5.20
169	McClung, Alice E.	720.00
170	(To be paid in monthly in-	
171	stallments of \$30 each from	
172	1-1-43 to 1-1-45).	
173	Park Pontiac Inc.	11.00
174	Peerless Milling Co., The	141.00
175	Piggott, Bessie A.	35.00
176	Pratt, Effie Savage	240.00
177	(To be paid in monthly in-	
178	stallments of \$10 each from	
179	1-1-43 to 12-31-44).	
180	Pritchard Motor Car Company,	
181	and Willie Morris	110.04
182	Proudfoot, Hugh B.	250.00

183	Racioppi, Nicholas	9.50
184	Skelton, Lottie	840.00
185	(To be paid in monthly in-	
186	stallments of \$35 each from	
187	1-1-43 to 1-1-45).	
188	Stiles, W. L.	10.00
189	Stretton, B. S.	10.97
190	Strickland, George	53.86
191	Swisher, Ray M.	3,000.00
192	Valley Motor Sales, assignee of	
193	O. L. Harvey	252.25
194	Woods, Ola	38.40
195	Total	\$ 85,359.37

900—Bonded Obligations

Acct. No. 6476

Sec. 3. Bonded Obligations.—

- 2 There is hereby appropriated
 3 out of the General Revenue
 4 Fund to meet the principal
 5 and interest requirements of
 6 funding bonds authorized un-
 7 der Chapter 58, Acts of the
 8 Legislature, First Extraordin-
 9 ary Session, 1933, to pay non-
 10 bonded debts existing at the
 11 time of the adoption of the
 12 tax limitation amendment.
- 13 Total \$ 353,000.00 \$ 342,000.00

- Sec. 4. Reappropriations.—The date of expiration of
 2 the encumbered but unexpended parts of the following
 3 named appropriations made by section four, title two,
 4 chapter six (Budget Bill), Acts of the Legislature, Regular
 5 Session, 1941, to-wit:
- 6 Item 6, in the amount of \$56,635.26;
 7 Item 7, in the amount of \$17,000.00;
 8 Item 8, in the amount of \$16,859.98;
 9 Item 9, in the amount of \$101,573.50;
 10 Item 10, in the amount of \$24,302.89;

- 11 Item 11, in the amount of \$117,855.23;
12 Item 13, in the amount of \$1,724.64;
13 Item 15, in the amount of \$6,500.00;
14 Item 18, in the amount of \$128,369.98;
15 Item 19, in the amount of \$6,496.69;
16 Item 20, in the amount of \$7,739.32;
17 Item 24, in the amount of \$15,000.00;
18 Item 25, in the amount of \$1,000,000.00;
19 is hereby extended to June 30, 1945, and such encumbered
20 but unexpended parts are hereby reappropriated from
21 the date of expiration to June 30, 1945, for the purposes
22 for which they were originally appropriated.
23 The date of expiration of the following named appro-
24 priations made by section four, title two, chapter six
25 (Budget Bill), Acts of the Legislature, Regular Session,
26 1941, to-wit:
27 Item 26, in the amount of \$1,000,000.00;
28 Item 27, in the amount of \$100,000.00 only;
29 is hereby extended to June 30, 1945, and said sum of one mil-
30 lion dollars (\$1,000,000.00) and one hundred thousand dol-
31 lars (\$100,000.00) are hereby reappropriated to June 30,
32 1945, for the purposes for which they were originally ap-
33 propriated.
34 The unexpended and unencumbered balances in the items
35 (2), (3), (4), (6), (7), (9), (10), (11), (12), (13), (14), (15),
36 (16), (17), (18), (19), (20), (21), (22), (23), (24), and (27),
37 of section 4, of subsection (5), of the 1941 Budget Act, are
38 hereby earmarked to apply on the payment of monthly
39 bonus to teachers for the biennium 1943-1945, as more speci-
40 fically set out in account No. 6407 of Title Two of this act.
41 The provisions of section 12, article 3, chapter 12
42 of the code of West Virginia, 1931, shall be inoperative in-
43 sofar as they conflict herewith.
44 Of the amount of item 11, herein reappropriated,
45 \$64,444.83 shall be available for expenditure only at Weston
46 State Hospital, located at Weston, Lewis County, West
47 Virginia, and \$53,410.40 shall be available for expenditure
48 only at Barboursville Unit of Weston State Hospital, for
49 operating same to and through the month of June, 1943.
50 The above item (27) shall be expended by the Soil Con-

51 servation Commission for the establishment and operation
52 of limestone plants for the production of agricultural lime
53 for sale to persons engaged in agricultural pursuits in this
54 state.

Sec. 5. *Special Revenue Appropriations.*—There is hereby
2 appropriated for expenditure during the fiscal years one
3 thousand nine hundred forty-four and one thousand nine
4 hundred forty-five: Appropriations made by general law
5 from special revenue which is not paid into the state
6 fund as general revenue under the provisions of section
7 two, article two, chapter twelve of the code of West
8 Virginia, one thousand nine hundred thirty-one: *Provided,*
9 *however,* That collections from the sale of farm and dairy
10 products shall be expended only for the improvement of
11 the farm on which such products were raised and for such
12 of the operating and maintenance expenses of the insti-
13 tution making the sales as are customarily paid out of its
14 current expense account: *Provided further,* That none of
15 the moneys so appropriated by this section shall be avail-
16 able for expenditure except in compliance with and in
17 conformity to the provisions of Articles 2 and 3, Chapter 12,
18 of the code of West Virginia, and Chapter 39, Acts of the
19 Legislature, Regular Session, one thousand nine hundred
20 thirty-nine, and unless the spending unit has filed with the
21 State Director of the Budget and the State Auditor prior
22 to the beginning of each fiscal year:

23 (a) An estimate of the amount and sources of all
24 revenues accruing to such fund;

25 (b) A detailed expenditure schedule showing for what
26 purposes the fund is to be expended.

Sec. 6. *Appropriations Revived and Extended.*—A part
2 of an appropriation to a spending unit that remains un-
3 expended at the end of the fiscal year one thousand nine
4 hundred forty-four may, by order of the board of public
5 works, be revived and expended to meet unforeseen con-
6 tingencies arising during the fiscal year one thousand nine
7 hundred forty-five.

Sec. 7. *Specific Statutory Appropriations.*—Whenever the
2 specific payment of a definite sum of money is required by

3 general law such sum shall be paid from the proper item
4 appropriated by this act.

Sec. 8. *Specific Funds and Collection Accounts.*—A fund
2 or collection account, which by law is dedicated to a
3 specific use, is hereby appropriated in sufficient amount
4 to meet all lawful demands upon the fund or collection
5 account, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 9. *Appropriations for Refunding Erroneous Pay-*
2 *ments.*—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.
5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his
9 warrant to the treasurer and the treasurer shall pay the
10 warrant out of the fund into which the amount was origi-
11 nally paid.

Sec. 10. *Contingent Fund.*—A contingent fund may be
2 expended as appropriated, with the approval of the board
3 of public works, when the expenditure will improve the
4 governmental service and care for unexpended contin-
5 gencies. A part of a contingent fund that remains unex-
6 pended at the end of the first fiscal year shall automatically
7 become available for expenditure during the second fiscal
8 year.

9 The expenditure of the governor's civil contingent fund.
10 and the legislative contingent funds shall not be conditioned
11 upon the approval of the board of public works.

Sec. 11. *Sinking Fund Deficiencies.*—There is hereby
2 appropriated to the board of public works a sufficient
3 amount to meet a deficiency that may arise in the fund
4 of the state sinking fund commission because of the fail-
5 ure of any state agency or local taxing district to remit
6 funds necessary for the payment of interest and sinking
7 fund requirements. The board of public works is author-
8 ized to transfer from time to time such amounts to the

9 state sinking fund commission as may be necessary for
10 this purpose.

11 The state sinking fund commission shall reimburse the
12 board of public works from the first remittance collected
13 from any state agency or local taxing district for which
14 the board of public works advanced funds, with interest
15 at the rate carried by the bonds for which the advance
16 was made.

Sec. 12. *Appropriations from Taxes and License Fees.*—

2 There is hereby appropriated from all chain store tax fees
3 and general license taxes collected by the state tax com-
4 missioner, all necessary salaries and expenses, not to ex-
5 ceed twenty-five per cent of the gross collections authorized
6 by law to be expended in the collection of such chain
7 store tax fees and general license taxes. All such salaries
8 and expenses, authorized by law as aforesaid, shall be
9 paid by the tax commissioner through the state treasurer
10 out of gross collections.

Sec. 13. *Appropriations to Pay Premiums on Bonds of*

2 *County Clerks.*—There is hereby appropriated out of the
3 General School Fund, to be paid upon the requisition of
4 the auditor, a sum sufficient to pay premiums on bonds of
5 county clerks to protect funds belonging to the said Gen-
6 eral School Fund, and out of the Special Revenue Fund of
7 the Conservation Commission, to be paid upon the requi-
8 sition of the Commission, a sum sufficient to pay prem-
9 iums on bonds of county clerks to protect funds belong-
10 ing to the said Conservation Commission.

Sec. 14. *Appropriation to Pay Costs of Publication of*

2 *Delinquent Corporations.*—There is hereby appropriated
3 out of the State Fund, General revenue, out of funds not
4 otherwise appropriated, to be paid upon requisition of the
5 auditor and/or the governor, as the case may be, a sum
6 sufficient to pay the costs of publication of delinquent
7 corporations as provided by sections seventy-five and
8 seventy-seven, article twelve, chapter eleven, of the code
9 of West Virginia, one thousand nine hundred thirty-one.

Sec. 15. *Appropriations for Local Governments.*—There

2 is hereby appropriated for payment to counties, districts,

3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and have been paid into the treasury:

- 6 1. For the redemption of lands;
- 7 2. By public service corporations;
- 8 3. For tax forfeitures.

Sec. 16. *Printing Costs.*—The cost of printing, binding, and
2 stationery for each spending unit shall be paid from the
3 current expense appropriation for the spending unit.

Sec. 17. *Total Appropriation.*—Where only a total sum
2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay.

Sec. 18. *General School Fund.*—The balance of the pro-
2 ceeds of the General School Fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with section six, article
5 nine, chapter eighteen of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Suspension of certain acts.
- 2-a. Limitation on spending.
3. Constitutionality.

Section 1. *Appropriations Conditional.*—The expenditure
2 of the appropriations made by this act, except those appro-
3 priations made to the legislative and judicial branches of
4 the state government, are conditioned upon the compliance
5 by the spending unit with the requirements of article five,
6 chapter five of the code of West Virginia, one thousand
7 nine hundred thirty-one, as amended, by chapter thirty-
8 nine, acts of the Legislature, regular session, one thousand
9 nine hundred thirty-nine.

Sec. 2. *Suspension of Certain Acts.*—A provision of an-
2 other act, or of the code of West Virginia, one thousand
3 nine hundred thirty-one, as amended, which is in conflict
4 with the provisions of this act, is hereby suspended during
5 the operation of this act.

Sec. 2-a. *Limitation on Spending.*—The appropriations made by this act are made for the maintenance and operation of the departments, services, and institutions, humane, educational, eleemosynary, and penal, as heretofore established by the Legislature, and may be expended only for the maintenance and operation of the departments, services, and institutions as so established; and no part of any appropriation, including contingent and emergency appropriations, made by this act for any institution, humane, educational, eleemosynary, or penal, shall be expended for any purpose or at any place other than for the maintenance and operation of such institution at the geographical place or location at which such institution has heretofore been established by the Legislature, and for no other purpose and at no other place: *Provided, however,* That where any appropriation appears in the name of an institution, the name of which has been changed by an act of this session of the Legislature, the funds appropriated for the old institution shall be applied to the institution operating under the new name and succeeding to the possession of the physical plant of the former institution, and any officer or person who shall expend or shall participate in the expenditure of any part of any appropriation made by this act in violation of any of the provisions hereof shall be personally liable therefor.

Sec. 3. *Constitutionality.*—If any part of this act is declared unconstitutional by a court of competent jurisdiction its decision shall not affect any portion of this act which remains, but the remaining portions shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

CHAPTER 2

(Senate Bill No. 219—By Mr. Johnston, by request)

AN ACT to amend article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, numbered

section nineteen-a, relating to bonds of employees and deputies of the tax commissioner's office.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 2. Official and Other Bonds.

Section

19-a. Bonds of employees and deputies of the tax commissioner's office.

Be it enacted by the Legislature of West Virginia:

That article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, numbered section nineteen-a, to read as follows:

Section 19-a. *Bonds of Employees and Deputies of the Tax Commissioner's Office.*—The tax commissioner shall require every employee and deputy who collects fees or handles funds, or who has custody of equipment, supplies, and other property belonging to the state, to take the oath prescribed by section five, article four of the state constitution; and he shall require every employee and deputy to furnish, or he shall himself obtain, a bond, insurance policy, indemnity contract, or other contract, protecting and indemnifying the state against any and all loss or damage that may be occasioned by the failure of the employee or deputy faithfully to perform the duties pertaining to his employment, and to account for, pay over and deliver to the proper officer or agent of the tax commissioner or state all moneys and other property which may come into his custody or under his control by virtue of his employment. Such bond, insurance policy, indemnity contract, or other contract, shall be in such form, and in such sum, and with such security, as may be prescribed or approved by the tax commissioner, and may cover any one employee or deputy or any number of employees or deputies. The premiums for all such bonds, insurance policies, indemnity contracts, or other contracts, shall be paid by the tax commissioner.

CHAPTER 3

(Senate Bill No. 180—By Mr. Mitchell, by request)

AN ACT to amend and reenact section twenty, article four, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being section twenty, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to highway contractors' bonds.

[Passed March 6, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. State Road System; Primary and Secondary Roads.

Section

20. Execution of contract and bond by successful bidder; copy furnished clerk of county court; forfeiture or return of checks or bonds.

Be it enacted by the Legislature of West Virginia:

That section twenty, article four, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being section twenty, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 20. *Execution of Contract and Bond by Successful Bidder; Copy Furnished Clerk of County Court; Forfeiture or Return of Checks or Bonds.*—In any case where a contract for work and materials shall be let as a result of competitive bidding, the successful bidder shall promptly and within twenty days after notice of award execute a formal contract to be approved as to its form, terms and conditions by the commissioner, and shall also execute and deliver to the commissioner a good and sufficient surety or collateral bond, payable to the state of West Virginia, to be approved by the commissioner, in such amount as the commissioner may require, but not to exceed the contract price, conditioned that such contractor shall well and truly perform his contract and shall pay in full to the persons entitled thereto for all material, gas,

16 oil, repairs, supplies, equipment, rental charges for equip-
17 ment and charges for the use of equipment, and labor used
18 by him in and about the performance of such contract.
19 An action, either at law or in equity, may be maintained
20 upon such bond for breach thereof by any person for
21 whose benefit the same was executed or by his assignee.
22 The bidder who has the contract awarded to him and who
23 fails within twenty days after notice of the award to
24 execute the required contract and bond shall forfeit such
25 check or bond, and the check or bond shall be taken and
26 considered as liquidated damages and not as a penalty
27 for failure of such bidder to execute such contract and
28 bond. Upon the execution of such contract and bond by
29 the successful bidder his check or bond shall be returned
30 to him. The checks or bonds of the unsuccessful bidders
31 shall be returned to them promptly after the bids are
32 opened and the contract awarded to the successful bidder.
33 A duplicate copy of such contract and bond shall be fur-
34 nished by the state road commissioner in loose leaf form,
35 to the clerk of the county court of the county in which
36 such contract is to be performed, and it shall be the duty
37 of the clerk to bind and preserve the same in his office,
38 and index the same in the name of the commissioner and
39 of the contractor.

CHAPTER 4

(Senate Bill No. 78—By Mr. Pelter)

AN ACT authorizing the issuance and sale of not exceeding five million dollars of road bonds of the state of West Virginia to raise money for road construction and maintenance purposes under and by virtue of the "good roads amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-

annually the interest on said bonds and the principal thereof within twenty-five years.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Section

1. Road bonds; amount; when may issue.
2. Transfer, fee; registration, fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund, sources; used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. Road Bonds; Amount; When May Issue.—

- 2 Bonds of the state of West Virginia of the par value of
- 3 five million dollars are hereby authorized to be issued and
- 4 sold for the purpose of raising funds for assisting in build-
- 5 ing, constructing and maintaining the system of state
- 6 roads and highways provided for by the constitution. Said
- 7 bonds may be issued by the governor in such amounts, in
- 8 coupon or registered form, in such denominations, at such
- 9 times and bearing such date or dates as the governor may
- 10 determine, and shall become due and payable serially in
- 11 equal amounts beginning one year and ending twenty-
- 12 five years from the date thereof: *Provided, however, That*
- 13 *no bonds may be issued under the provisions of this act*
- 14 *until bonds authorized and issued under the provisions of*
- 15 *the "good roads amendment" to the constitution of the*
- 16 *state, ratified at the general election held in November,*
- 17 *one thousand nine hundred twenty, have been retired and*
- 18 *cancelled out of the state road sinking fund created by*
- 19 *section six, chapter one hundred thirteen, acts of the*
- 20 *Legislature of West Virginia, one thousand nine hun-*
- 21 *dred twenty-one, in an amount equal to or greater than*
- 22 *the amount to be issued hereunder at any one time.*
- 23 Of the bonds authorized by this section, three million

24 dollars may be issued and sold for the purpose of raising
25 funds for building and constructing the system of state
26 roads and highways provided for by the constitution,
27 and the issuance and sale of the remainder shall be
28 limited to maintenance, subject to the limitations upon
29 such issuance and sale hereinafter imposed: *Provided,*
30 *however,* That no bonds authorized by this section for the
31 purpose of maintaining the system of state roads and high-
32 ways provided for by the constitution shall be issued
33 for said purposes of maintenance until it shall have
34 been ascertained by the board of public works, by order
35 entered of record, that the total revenues of the state
36 road commission of West Virginia from all sources have
37 declined to the point that such revenues will not produce
38 the sum of fourteen million dollars in the fiscal year in
39 which such order is entered and during which the pro-
40 ceeds of said bonds are to be used for said maintenance
41 purposes.

2 *Sec. 2. Transfer, Fee; Registration, Fee; Where Pay-*
3 *able; Interest Rate; Tax Exempt.*—The auditor and treas-
4 urer are hereby authorized to arrange for the transfer of
5 registered bonds, and for each such transfer a fee of fifty
6 cents shall be charged by and paid to the state of West
7 Virginia, to the credit of the state road sinking fund.
8 Bonds taken in exchange will be cancelled by the auditor
9 and treasurer and be carefully preserved by the treasurer.
10 The treasurer shall make provisions for registering "pay-
11 able to bearer" bonds and for each bond registered a fee
12 of fifty cents shall likewise be charged by and paid to the
13 state of West Virginia, to the credit of the state road sink-
14 ing fund. All of such bonds shall be payable at the of-
15 fice of the treasurer of the state of West Virginia, or, at
16 the option of the holder, at some designated bank in the
17 city of New York to be designated by the governor. Said
18 bonds shall bear interest at a rate not exceeding four and
19 one-half per cent per annum, payable semi-annually, on
20 the first day of and the first day of ,
21 of each year, at the office of the treasurer of
22 the state of West Virginia, at the capitol of said state, or
23 at the bank designated by the governor, upon presenta-
tion and surrender of interest coupons then due, in the

24 case of coupon bonds. In the case of registered bonds the
25 treasurer of the state of West Virginia shall issue his
26 check for the interest then due on the first day of
27 and of each year, and mail the same to the regis-
28 tered owner at his address as shown by the record of
29 registration. Both the principal and interest of said
30 bonds shall be payable in lawful money of the United
31 States of America, and said bonds shall be exempt from
32 taxation by the state of West Virginia, or by any county,
33 district, or municipality thereof, which fact shall appear
34 on the face of the bonds as part of the contract with the
35 holder thereof.

Sec. 3. *Form of Bond.*—Said bonds and coupons shall
2 be engraved and the bonds shall be signed on behalf of
3 the state of West Virginia, by the treasurer thereof, un-
4 der the great seal of the state, and countersigned by the
5 auditor of the state, and shall be in the following form
6 or to the following effect, as nearly as may be, namely:

7 COUPON ROAD BOND

8 (Or registered road bond, as the case may be)

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$ No.

12 The state of West Virginia, under and by virtue of
13 authority of an act of the Legislature passed at the regu-
14 lar session of one thousand nine hundred forty-three, on
15 the day of, one thousand nine hun-
16 dred forty-three, and approved by the governor on the
17 day of, one thousand nine hundred
18 forty-three, which is hereby made a part hereof as fully
19 as if set forth at length herein, acknowledges itself to
20 be indebted to, and hereby promises to pay to the bearer
21 hereof (in the case of a coupon bond) or to
22 or assigns (the owner of record, in case of registered
23 bonds) years after the date of this bond, to-
24 wit: On the day of, 19 .., in lawful
25 money of the United States of America at the office of
26 the treasurer of the State of West Virginia, at the capi-
27 tol of said state, or at the option of the holder at
28 bank in the City of New York, the sum of
29 dollars, with interest thereon at per centum per

30 annum from date, payable semi-annually in like lawful
31 money of the United States of America at the treasurer's
32 office or bank aforesaid, on the first day of
33 and the first day of of each year, (and in the
34 case of coupon bonds) according to the tenor of the an-
35 nexed coupons, bearing the engraved facsimile signature
36 of the treasurer of the state of West Virginia, upon sur-
37 render of such coupons. This bond (in the case of a cou-
38 pon bond) may be exchanged for a registered bond of
39 like tenor upon application to the treasurer of the state
40 of West Virginia.

41 To secure the payment of this bond, principal sum and
42 interest, when other funds and revenues sufficient are not
43 available for that purpose, it is agreed that, within the
44 limits prescribed by the constitution, the board of pub-
45 lic works of the state of West Virginia shall annually
46 cause to be levied and collected an annual state tax on all
47 property in the state, until said bond is fully paid, suf-
48 ficient to pay the annual interest on said bond and the
49 principal sum thereof within the time this bond becomes
50 due and payable.

51 This bond is hereby made exempt from any taxation
52 by the state of West Virginia, or by any county, district,
53 or municipal corporation thereof.

54 In testimony whereof, witness the signature of the
55 treasurer of the state of West Virginia, and the counter-
56 signature of the auditor of said state, hereto affixed ac-
57 cording to law, dated the day of,
58 one thousand nine hundred, and the seal
59 of the state of West Virginia.

60 (Seal)

61 Treasurer of the State of West Virginia.

62 Countersigned:

63

64 Auditor of the State of West Virginia.

2 Sec. 4. *Form of Coupon*.—The form of coupon shall be
substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA

4 Bond No. Coupon No.

5 On the first day of, 19, the state
6 of West Virginia will pay to the bearer, in lawful money

7 of the United States of America, at the office of the
8 treasurer of the state, or at the option of the holder
9 at _____ bank in the City of New York,
10 the sum of _____ dollars, the same being semi-
11 annual interest on Road Bond No. _____, series
12 of one thousand nine hundred _____.

13

14

Treasurer of the State of West Virginia.

15

16

17

18

19

20

21

22

23

The signature of the treasurer to said coupon shall be by his engraved facsimile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. Said bonds and coupons may be signed by the present treasurer and auditor, or by any of their respective successors in office, and bonds signed by the persons now in office may be sold by the governor or his successor in office without being signed by the successor in office of the present treasurer or auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and post office address of the person, firm or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund, Sources; Used to Pay Bonds and Interest; Investment of Remainder.*—Into the state road sinking fund there shall be paid all moneys received from the annual state tax levy on the taxable property in the state levied under the provisions of this act, from any and all appropriations made by the state from other sources for the purposes of paying the interest on said bonds or paying off and retiring same, from fines, forfeitures and penalties, if any made applicable by law for the payment of said bonds or the interest thereon, from transfer fees as herein provided, and from any source whatsoever, which is made liable by law for the payment of the principal of said bonds or the interest thereon.

All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all

17 money belonging to said fund shall be deposited in the
18 state treasury to the credit thereof.

19 Said fund shall be applied by the treasurer of the state,
20 first to the payment of the semi-annual interest on said
21 bonds as it shall become due as herein provided. The
22 remainder of said fund shall be turned over by the state
23 treasurer to the state sinking fund commission, whose
24 duty it shall be to invest the same in bonds of the
25 government of the United States, bonds of the state of
26 West Virginia, or any political subdivision thereof: *Pro-*
27 *vided, however,* That bonds so purchased by the state
28 sinking fund commission shall mature so as to provide
29 sufficient money to pay off all bonds herein provided
30 to be issued as they may become due; and the money so
31 paid into the said state road sinking fund under the pro-
32 visions of this act shall be expended for the purpose
33 of paying the interest and principal of the bonds hereby
34 provided for as they severally become due and payable,
35 and for no other purpose except that said fund may be in-
36 vested until needed, as herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds Avail-*
2 *able.*—In order to provide the revenue necessary for the
3 payment of the principal and interest of said bonds, as
4 hereinbefore provided, the board of public works, within
5 the limits prescribed by the constitution, is authorized,
6 empowered and directed to lay annually a tax upon all
7 real and personal property subject to taxation within
8 this state, sufficient to pay interest on said bonds accruing
9 during the current year and one twenty-fifth of the total
10 issue (at par value) of said bonds, for such number of
11 years, not exceeding twenty-five, as may be necessary to
12 pay the interest thereon and to pay off the principal sum
13 of said bonds; and said taxes, when so collected, shall not
14 be liable for or applicable to any other purpose: *Pro-*
15 *vided, however,* That if there be other funds in the state
16 treasury, or in the state road funds, in any fiscal year,
17 not otherwise appropriated, or if other sources of revenue
18 be hereafter provided by law for the purpose, the board
19 of public works is authorized, empowered and directed
20 to set apart, in any year there be such funds, or other
21 sources of revenue provided for such purpose, a sum suf-

22 ficient to pay the interest on bonds accruing during the
23 current year, and to pay off, and retire the principal of
24 said bonds, or any part thereof, at maturity.

25 The authority hereby vested in the board of public
26 works shall be in addition to the authority now vested
27 in it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-
2 ernor shall sell all bonds herein mentioned at such time
3 or times as he may determine necessary to provide funds
4 for road construction purposes, as herein provided, upon
5 recommendation of the state road commission. All sales
6 shall be at not less than par and accrued interest. All
7 interest coupons becoming payable prior to said sale date
8 shall be cancelled by the treasurer and rendered in-
9 effective, before the delivery of the bonds so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.*—The pro-
2 ceeds of all sales of bonds herein authorized shall be paid
3 into the state road fund created by section one, article
4 three, chapter forty, acts of the Legislature, first ex-
5 traordinary session, one thousand nine hundred thirty-
6 three.

Sec. 10. *Plates Property of State.*—The plates from
2 which the bonds authorized by this act are engraved
3 shall be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—The
2 state auditor shall be the custodian of all unsold bonds
3 issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-
2 thorize the issuance of interim certificates to be issued to
3 the purchasers of said bonds to be held by them in lieu
4 of engraved bonds. When said interim certificates are
5 so issued, they shall become full and legal obligations
6 of the state of West Virginia under all of the provisions
7 of this act just as fully and completely as the engraved
8 and permanent bonds.

Sec. 13. *Payment of Expenses.*—All necessary expenses
2 incurred in the execution of this act shall be paid out of
3 the state road fund on warrants of the auditor of the
4 state drawn on the state treasurer.

CHAPTER 5

(House Bill No. 41—By Mr. Bass)

AN ACT to amend and reenact section twenty, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by section twenty, chapter forty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and as amended and reenacted by section twenty, chapter ninety-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to payment of premiums on official bonds.

[Passed February 10, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 2. Official and Other Bonds.

Section

20. Premiums to be allowed on official bonds.

Be it enacted by the Legislature of West Virginia:

That section twenty, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 20. *Premiums to Be Allowed on Official Bonds.*

- 2 —Every officer or employee who is paid a salary and who
3 is required to give an official bond by virtue of the pro-
4 visions of this article, and who furnishes a surety com-
5 pany bond, shall be reimbursed by the state, county,
6 municipality or board of education, as the case may be,
7 for the actual premium paid to the surety company for
8 such bond, in an amount not exceeding seven dollars and
9 a half per thousand per annum.

CHAPTER 6

(House Bill No. 173—By Mr. Moler, by request)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section nine, article four,

relating to the inhibition against branch banks, the inhibition of a banking institution to sign indemnity contracts or pledge its assets to indemnify a surety, and exceptions as to the guarantee by a banking institution of federal deposits and deposits of state and divisions thereof; section twenty, article four, relating to interest allowed to a banking institution in certain cases; section seven, article eight, relating to examination of the books, accounts and records of a banking institution by the commissioner of banking and the communications from such commissioner; section fifteen, article eight, relating to the annual meeting of the stockholders of a banking institution, statement of the financial condition of the institution to such stockholders, and the appointment by such stockholders of an examining committee and the duties of such committee; section eighteen, article eight, relating to limitation of loans by a banking institution, the authorization of loans to officers and employees of a bank and banking department and the valuation of securities; all relating to banking institutions.

[Passed March 1, 1943; in effect from passage. Approved by the Governor.]

Article

4. Banking Institutions.

8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections nine and twenty, article four, and sections seven, fifteen and eighteen, article eight, all to read as follows:

Article 4. Banking Institutions.

Section

9. Branch banks forbidden; bank not to sign indemnity contract or pledge its assets to indemnify a surety; exception as to guarantee of federal deposits, deposits of state and division thereof, and deposits of a bankrupt's estate made pursuant to an order of a court of bankruptcy.
20. Interest allowed in certain cases.

**Section 9. Branch Banks Forbidden; Bank Not to Sign
2 Indemnity Contract or Pledge Its Assets to Indemnify a**

3 *Surety; Exception as to Guarantee of Federal Deposits,*
4 *Deposits of State and Division Thereof, and Deposits of a*
5 *Bankrupt's Estate Made Pursuant to an Order of a Court*
6 *of Bankruptcy.*—No banking institution chartered and
7 authorized to engage in business under the laws of this
8 state, shall hereafter install or maintain any branch bank,
9 or engage in business at any place other than at its principal
10 office in the state of West Virginia; or engage in
11 any business other than as authorized in this article. No
12 banking institution shall become or be accepted as surety
13 on any bond or undertaking required by the laws or
14 by the courts of this state, or any other state, or shall
15 become surety or guarantor of any person for the
16 discharge of any duty in any position or the performance
17 of any contract or undertaking. No banking institution
18 shall pledge, hypothecate or deliver any of its
19 assets of any description whatsoever to any person to
20 indemnify him as surety for such banking institution
21 or as surety for any other person: *Provided*, That a
22 bank or trust company may pledge, hypothecate, deliver
23 or deposit securities to guarantee deposits of the
24 United States, its agencies, state of West Virginia, a
25 county, district, school district or a municipal corporation,
26 and the deposits of a bankrupt's estate made pursuant
27 to an order of a court of bankruptcy, and, with the
28 consent in writing of the commissioner of banking,
29 may pledge, hypothecate, deliver or deposit securities
30 and/or assets to guarantee deposits made by receivers
31 of closed and/or insolvent banking institutions, and the
32 receiver of a closed and/or insolvent banking institution,
33 if the proceeding be not in court, with the consent in
34 writing of the commissioner of banking, and if the proceeding
35 be in court, with the consent in writing of the commissioner
36 of banking and the approval of the court, may accept securities
37 and/or assets of a banking institution to secure deposits
38 made by such receiver: *Provided further*, That the hypothecation
39 of such securities and/or assets shall be by proper legal
40 transfer as collateral security to protect and indemnify
41 by trust any and all loss in case of any default on the
42 part of the banking institution in its capacity as a

44 depository for any such deposits as aforesaid, and such
45 collateral security shall be released only by order of
46 record of the public officer or public body, or by the
47 receiver of a closed and/or insolvent banking institu-
48 tion, if the proceeding be not in court, with the con-
49 sent in writing of the commissioner of banking, and
50 if the proceeding be in court, with the consent in writ-
51 ing of the commissioner of banking and the approval
52 of the court, when satisfied that full and faithful ac-
53 counting and payment of all the moneys has been made
54 under the provisions hereof. The public officer or pub-
55 lic body, or the receiver of a closed and/or insolvent
56 banking institution, shall make ample provision for the
57 safekeeping of such hypothecated securities and/or as-
58 sets, and the interest thereon when paid shall be turned
59 over to the banking institution, so long as it is not in de-
60 fault as aforesaid.

61 The foregoing shall not prevent the hypothecation of
62 the securities and/or assets of any banking institution
63 to secure the repayment of money borrowed from an-
64 other banking institution.

Sec. 20. *Interest Allowed in Certain Cases.*—In addi-
2 tion to the interest rate provided in the article dealing
3 with money and interest in chapter forty-seven of this
4 code, a banking institution may charge and collect a
5 reasonable amount to cover the expenses incurred in
6 procuring reports and information respecting loans and
7 the value of and title to property offered as security
8 therefor, and a charge of one dollar may be made for
9 any loan or forbearance of money or other thing where
10 the interest at the rate of six per cent per annum
11 would not amount to that sum, and the same shall not
12 be a usurious charge or rate of interest. Any banking
13 institution authorized to do, and doing business in this
14 state, may contract for and charge for a secured or un-
15 secured loan, repayable in installments, not in excess of
16 six per cent per annum upon the face amount of the
17 instrument or instruments, evidencing the obligation to
18 repay the loan, for the entire period of the loan, and
19 deduct such charge in advance: *Provided, however, That*

20 if the entire unpaid balance outstanding on the loan is
21 paid on any installment date, prior to maturity, the bank
22 shall make a refund or rebate of such charge in an amount
23 computed on the aggregate installments not due, at the
24 original contract rate of charge, prorated to the period of
25 the loan covered by such unmatured installments; and
26 any note evidencing any such installment loan may pro-
27 vide that the entire unpaid balance thereof at the option
28 of the holder shall become due and payable upon default
29 in payment of any stipulated installment without im-
30 pairing the negotiability of such note, if otherwise nego-
31 tiable.

**Article 8. Business Operations and Supervision of Banking
Institutions, Industrial Loan Companies and Building and
Loan Associations.**

Section

7. Examination of books, accounts and records; communications from banking commissioner.
15. Annual meeting; examining committee; appointment; failure to act.
18. Limitation on loans; authorization of loans to officers and employees of banks and banking department; valuation of securities.

Section 7. *Examination of Books, Accounts and Records; Communications from Banking Commissioner.*—The commissioner of banking shall make, or cause to be made, at least once each calendar year, a thorough examination of all the books, accounts, records and papers of every banking institution, industrial loan company and building and loan association, except national banking associations organized under the acts of congress, engaged in business in the state of West Virginia. He shall carefully examine all of the assets of the corporation, including its notes, drafts, checks, mortgages, securities deposited to assure the payment of debts unto it, and all papers, documents and records showing, or in any manner relating to, its business affairs, and shall ascertain the full amount and the nature in detail of all of its liabilities. A full report of every such examination shall be made and filed and preserved in the office of the department of banking.

19 For the purpose of facilitating such examination, every

20 corporation subject to supervision shall preserve and
21 keep all of its records of final entry, including cards
22 used under the card system, and deposit tickets for de-
23 posits made, for a period of at least six years from the
24 date of the last entry on such books and the date of
25 the making of such deposit tickets, and card records.

26 Every official communication from the office of the
27 department of banking to any corporation or any offi-
28 cer of such corporation subject to the supervision of
29 said department, relating to an examination or an in-
30 vestigation of the affairs of such institution conducted
31 by the department of banking and supervision or con-
32 taining suggestions or recommendations as to the man-
33 ner of conducting the business of the corporation, shall
34 be submitted and read to the board of directors at the
35 next meeting after the receipt thereof, and the presi-
36 dent, or other executive officer, of the corporation shall
37 report in writing forthwith to the commissioner of bank-
38 ing the fact of the presentation and reading of such
39 report, and communicate any action taken thereon by
40 the corporation.

Sec. 15. *Annual Meeting; Examining Committee; Ap-
2 pointment; Failure to Act.*—The stockholders of each
3 banking institution shall meet annually, and at such
4 annual meeting it shall be the duty of the cashier or other
5 executive officer of such banking institution to prepare
6 and submit to the stockholders a clear and concise state-
7 ment of the financial condition of the corporation as
8 of the close of business on the last day of the month next
9 preceding. At such meeting the stockholders shall ap-
10 point an examining committee, whose duty it shall be
11 to examine the condition of the bank at least once dur-
12 ing each calendar year. The examining committee shall
13 report to the board of directors, giving in detail all
14 items included in assets of the bank which they have
15 reason to believe are not of the value at which they
16 appear on the books and records of the bank, and giving
17 the value of each of such items according to their
18 judgment. Should such committee deem it advisable,
19 it may, with the consent and approval of the board of
20 directors, employ competent accountants or auditors to

21 make such examination or make same in conjunction
22 with the regular examination of the banking depart-
23 ment. The examiners may require the presence of the
24 examining committee or the executive committee dur-
25 ing their examination. The board shall cause such re-
26 port to be recorded in the minute books of the bank,
27 and a duly authenticated copy thereof transmitted to
28 the commissioner of banking.

Sec. 18. *Limitation on Loans; Authorization of Loans
2 to Officers and Employees of Banks and Banking Depart-
3 ment; Valuation of Securities.*—The total liabilities to
4 any banking institution of any persons, firm or corpora-
5 tion, for money borrowed by note, bond, certificate of
6 indebtedness or other device, including, in the liabili-
7 ties of the firm the liabilities of the several members
8 thereof, including in the liabilities of any corporation
9 an investment by such banking institution in the stock
10 of such corporation, shall at no time exceed ten per cent
11 of the unimpaired capital stock, including debentures
12 and surplus fund of such banking institution. But the
13 discount of commercial or business paper actually owned
14 by the person, firm or corporation negotiating the same
15 shall not be considered as money borrowed within the
16 limitation of this section; and the obligations of any
17 person, firm or corporation, in the form of notes or drafts
18 secured by shipping documents, warehouse receipts or
19 other such documents transferring or securing titles cov-
20 ering readily marketable, nonperishable staples when
21 such property is fully covered by insurance, if it is
22 customary to insure such staples, shall be considered
23 money borrowed within the meaning of this section, but
24 shall be subject to the exception that with respect
25 thereto the limitation of ten per cent of the unimpaired
26 capital stock, including debentures and surplus fund, to
27 which reference has hereinbefore been made, may be
28 increased to twenty-five per cent when the market
29 value of such staples securing such obligations is not
30 at any time less than one hundred fifteen per cent of
31 the face amount of such obligations, and may be in-
32 creased up to fifty per cent of such unimpaired capital
33 stock, including debentures and surplus fund, with a

34 corresponding increase in market value of such staples
35 securing such obligation up to not less than one hun-
36 dred forty per cent of the face amount of such ad-
37 ditional obligation, but this exception shall not apply
38 to obligations of any one person, firm or corporation
39 arising from the same transaction or secured upon the
40 identical staples for more than ten months. This sec-
41 tion shall not apply to the obligations of the United
42 States or general obligations of any state or political
43 subdivision thereof (when there has been no default
44 in the payment of interest or principal in respect of
45 the general obligations of any state or political sub-
46 division thereof within ten years prior to the purchase
47 of such obligations), bonds or obligations issued un-
48 der the authority of the West Virginia bridge commis-
49 sion or the state road commission, commonly known
50 as bridge revenue bonds, or obligations issued under
51 authority of the federal farm loan act, as amended, or
52 issued by the federal home loan bank, or the home
53 owners' loan corporation, or any loans or obligations
54 to the extent that they are secured or covered by guar-
55 anties, or by commitments or agreements to take over
56 or to purchase the same, made by any federal reserve
57 bank or by the United States or any department, board,
58 bureau, commission or establishment of the United
59 States, including any corporation wholly owned directly
60 or indirectly by the United States. Neither shall this
61 section apply to the obligations of a corporation owning
62 the building in which the banking institution is located,
63 when such banking institution has an unimpaired capital
64 and surplus of not less than one million dollars, or when
65 approved in writing by the commissioner of banking.
66 Nothing herein shall be construed to forbid the sale upon
67 credit of a bank building owned by a banking institu-
68 tion at the time this act takes effect.

69 No officer, director, clerk or other employee of any
70 banking institution or the commissioner of banking or
71 any employee of the department of banking shall bor-
72 row, directly or indirectly, from the banking institution
73 with which he is connected, or is subject to his examina-
74 tion, any sum of money without the written approval

75 of a majority of the board of directors or discount com-
76 mittee thereof filed in its office, or embodied in a reso-
77 lution adopted by a majority vote of such board, exclu-
78 sive of the director to whom the loan is made. If an of-
79 ficer, clerk or other employee of any bank shall own or
80 control a majority of the stock of any other corporation,
81 a loan to such corporation shall, for the purpose of this
82 section, constitute a loan to such officer, clerk or other
83 employee.

84 Securities purchased by a banking institution shall be
85 entered upon the books of the bank at actual cost, but
86 may be carried thereafter at market value. For the
87 purpose of calculating the undivided profits applicable to
88 the payment of dividends, securities shall not be esti-
89 mated at a valuation exceeding their present cost as
90 determined by amortization; that is, by deducting from
91 the cost of a security purchased at a premium, and charg-
92 ing to profit and loss a sum sufficient to bring it to par at
93 maturity.

94 All acts or parts of acts in conflict with the provisions
95 of this act are hereby repealed.

CHAPTER 7

(Senate Bill No. 131—By Mr. Allen, by request)

AN ACT to amend chapter thirty-one of the code of West Vir-
ginia, one thousand nine hundred thirty-one, by adding
thereto a new article to be known as article six-a, relating
to the federal savings and loan insurance corporation.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the
Governor.]

Article 6-a. Federal Savings and Loan Insurance Corporation.

Section

1. Powers of eligible institutions.
2. Powers as receiver; appointments.
3. Subrogation to rights of shareholder.
4. Examinations; reports.
5. Title to property vested in receiver.
6. When fact of corporation not a personal liability.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article, to be known as article six-a, to read as follows:

Section 1. *Powers of Eligible Institutions.*—Any institution eligible for insurance under the provisions of title four of the national housing act, approved the twenty-seventh day of June, one thousand nine hundred thirty-four, as amended, is hereby empowered to do all things necessary to obtain, continue, or terminate such insurance from the federal savings and loan insurance corporation, and every action heretofore taken by any such institution in connection with such insurance is hereby ratified and confirmed.

Sec. 2. *Powers as Receiver; Appointments.*—The federal savings and loan insurance corporation, created by title four of the national housing act, approved the twenty-seventh day of June, one thousand nine hundred thirty-four, as amended, is hereby authorized and empowered to be and act without bond as receiver or liquidator of any building and loan association, the shares, share accounts, or accounts in which are to any extent insured by said corporation, and which shall have been taken over for liquidation.

The appropriate state authority having the right to appoint a receiver or liquidator of any such insured association shall, in the event of the taking over of any such insured association for liquidation, tender to said corporation the appointment as receiver or liquidator thereof. If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator of a building and loan association, its shareholders, investors, and other creditors, and be subject to all the duties of such receiver or liquidator.

Sec. 3. *Subrogation to Rights of Shareholder.*—Whether or not the federal savings and loan insurance corporation shall serve as receiver or liquidator of any such insured

4 association, whenever it shall pay or make available for
5 payment the liabilities of any such insured association
6 which are insured by it, it shall, upon the surrender and
7 transfer to it of any share, share account, or account in-
8 sured by it, be subrogated with respect to such share,
9 share account, or account, but such surrender and trans-
10 fer of such share, share account, or account shall not affect
11 any right which the transferor thereof may have in any
12 portion of such share, share account, or account which is
13 uninsured or any right to participate in the distribution
14 of the net proceeds remaining from the disposition of the
15 assets of such insured association: *Provided*, That the
16 rights of the holders of shares, share accounts, or accounts
17 of any such insured association shall be determined in
18 accordance with the applicable provisions of the laws
19 of this state.

Sec. 4. *Examinations; Reports.*—The state banking com-
2 missioner is authorized to accept, in his discretion, in lieu
3 of any examination authorized by the laws of this state
4 to be conducted by his department of a building and loan
5 association which has the insurance protection provided
6 by title four of the national housing act, as amended, the
7 examination that may have been made of same within
8 a reasonable period by the federal home loan bank ad-
9 ministration, a federal home loan bank, or the federal
10 savings and loan insurance corporation, provided a copy
11 of said examination is furnished to said state banking
12 commissioner. Said state banking commissioner may,
13 also, in his discretion, accept any report relative to the
14 condition of any such insured association which may have
15 been obtained by the federal home loan bank adminis-
16 tration, a federal home loan bank, or the federal savings
17 and loan insurance corporation within a reasonable
18 period, in lieu of a report authorized by the laws of this
19 state to be required of such association by his department,
20 provided a copy of such report is furnished to said state
21 banking commissioner.

22 Said state banking commissioner may furnish to the
23 federal home loan bank administration, a federal home
24 loan bank, or the federal savings and loan insurance cor-
25 poration, or to any official or examiner thereof, a copy or

26 copies of any or all examinations made of any such in-
27 sured association and of any or all reports made by same,
28 and shall give access to and disclose to the federal home
29 loan bank administration, a federal home loan bank, or
30 the federal savings and loan insurance corporation, or any
31 official or examiner thereof, any and all information pos-
32 sessed by the office of said state banking commissioner
33 with reference to the conditions or affairs of any such in-
34 sured institution.

35 Nothing in this section shall be construed to limit the
36 duty of any such insured association to comply with the
37 provisions of the federal home loan bank act or the na-
38 tional housing act, their amendments or substitutions, or
39 the requirements of the federal home loan bank admin-
40 istration, a federal home loan bank, or the federal savings
41 and loan insurance corporation relative to examinations
42 and reports, nor to limit the powers of the state banking
43 commissioner with reference to examinations and re-
44 ports under existing law.

Sec. 5. *Title to Property Vested in Receiver.*—Upon
2 the acceptance of the appointment as receiver or liquida-
3 tor as aforesaid by the federal savings and loan insurance
4 corporation, the possession of and title to all the assets,
5 business and property, of every kind and nature, of such
6 insured association shall pass to and vest in said cor-
7 poration without the execution of any instruments of con-
8 veyance, assignment, transfer or endorsement.

Sec. 6. *When Fact of Corporation Not a Personal Lia-*
2 *bility.*—Except as otherwise in writing specifically agreed
3 by the federal savings and loan insurance corporation, no
4 transaction contract, undertaking, or agreement, and no
5 exercise by said corporation of any of the rights, powers,
6 privileges and/or authority by this act or otherwise vested
7 in it as receiver or liquidator or with respect to any re-
8 ceivership or liquidation shall constitute a personal debt,
9 obligation, or liability of or on the part of said cor-
10 poration.

CHAPTER 8

(Com. Sub. for House Bill No. 120—Originating in the House Committee on Insurance)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article thirteen, providing for the organization, incorporation, and operation of non-profit hospital service corporations, and the exemption of such corporations from the provisions of the insurance laws of this state.

[Passed March 9, 1943; in effect from passage. Became a law without the approval of the Governor.]

Article 13. Non-profit Hospital Service Corporations.

Section

1. Organization of corporations; purposes.
2. Corporation not to be converted into profit corporation.
3. Bond of officers and employees.
4. Insurance laws not applicable to such corporation.
5. Tax exemption.
6. Contractual obligations with approved hospitals.
7. Expiration of article.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding article thirteen thereto, to read as follows:

Section 1. *Organization of Corporations; Purposes.*—A
2 non-profit, non-stock hospital service corporation may be
3 organized in accordance with the provisions for the in-
4 corporation and organization of such corporations con-
5 tained in chapter thirty-one, for the purpose of furnish-
6 ing medical service and hospital service to persons who
7 become subscribers with such corporation. Medical serv-
8 ice shall consist of medical and surgical care as specified
9 in a subscriber contract issued by the corporation to a
10 subscriber and to be provided by physicians duly licensed
11 under the laws of West Virginia. Hospital service shall
12 consist of hospital care as specified in a subscriber con-
13 tract issued by the corporation to a subscriber and to be
14 provided by a hospital which is maintained by a corpora-

15 tion organized for hospital services under the law of this
16 state, or other approved hospitals.

17 The term "hospital service corporation", as used in this
18 article, includes any such corporation or any non-profit
19 service corporation heretofore organized and operating
20 within this state.

Sec. 2. *Corporation Not to Be Converted Into Profit*
2 Corporation.—No hospital service corporation shall be
3 converted into a corporation organized for pecuniary pro-
4 fit. Every such corporation shall be maintained and op-
5 erated for the benefit of its members and subscribers as
6 a non-profit corporation.

Sec. 3. *Bond of Officers and Employees.*—Every such
2 corporation organized and operating under the provisions
3 of this article shall provide in its by-laws that each of-
4 ficer, agent and employee of the corporation who is en-
5 trusted with the handling of funds shall furnish a cor-
6 porate surety bond in a licensed corporate surety company
7 in an amount specified by the board of directors of such
8 corporation and conditioned upon the faithful accounting
9 for all funds coming into his hands.

Sec. 4. *Insurance Laws Not Applicable to Such Cor-*
2 *poration.*—Except where such corporations are expressly
3 designated in other provisions of this chapter, such cor-
4 porations shall be exempt from all provisions of the in-
5 surance laws of this state, not only in governmental re-
6 lations with the state, but for every other purpose.

Sec. 5. *Tax Exemption.*—Every such corporation shall
2 be declared to be a scientific non-profit institution, and
3 its funds and property shall be exempt from all taxes.

Sec. 6. *Contractual Obligations with Approved Hos-*
2 *pitals.*—Each hospital service corporation incorporated
3 under the provisions of this article shall enter into con-
4 tractual obligation with one or more approved hospitals
5 in the area within which such subscriber contracts are
6 sold for the rendering to such subscribers the services
7 provided in such subscriber contracts.

- Sec. 7. *Expiration of Article.*—This article shall expire
2 February twenty-eighth, one thousand nine hundred
3 forty-five, unless sooner repealed.
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CHAPTER 9

(Senate Bill No. 130—By Mr. Allen, by request)

AN ACT to amend and reenact section eight, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to building and loan associations.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 6. Building and Loan Associations.

Section

8. Members; shareholders; dues; minors as shareholders.

Be it enacted by the Legislature of West Virginia:

That section eight, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

- Section 8. *Members; Shareholders; Dues; Minors as*
2 *Shareholders.*—(a) The members of a building and loan
3 association shall be only those to whom its shares have
4 been issued or transferred in accordance with the pro-
5 visions of its constitution and by-laws. Their member-
6 ship shall continue until such shares have been matured
7 and paid, withdrawn, retired, or forfeited. The payments
8 made to any such association upon shares issued by it
9 shall be called dues. They shall be paid in such sums and
10 at such times as are provided by the by-laws until the
11 shares reach their matured value, are withdrawn, retired,
12 or forfeited.
13 (b) Any building and loan or federal savings and loan
14 association may issue shares, share accounts or accounts
15 to minors above the age of fourteen, each in their own

16 right, and such parties shall be subject to the same duties
17 and liabilities as other shareholders. Any receipt, re-
18 lease, acquittance, or discharge given such association by
19 a minor above the age of fourteen, who holds shares, share
20 accounts or accounts, shall be a valid and sufficient re-
21 ceipt, release, acquittance, or discharge of any such asso-
22 ciation and shall be binding upon such minor to the same
23 extent as if it were given by any other shareholder.
24 Minors under fourteen years of age may hold shares in
25 any such association by a trustee or guardian.

26 (c) Any building and loan or federal savings and loan
27 association may issue shares, share accounts or accounts
28 in the names of two or more persons payable to either,
29 or payable to either or the survivor, in which event either
30 of said named persons shall have power to act in all
31 matters related to such shares, share accounts or accounts,
32 including the right to collect dividends and to withdraw
33 from such association, whether the other person or per-
34 sons named in such shares, share accounts or accounts be
35 living or not. The receipt or acquittance signed by any
36 such person, to whom any payment or delivery of rights
37 is made, shall be a valid and sufficient release and dis-
38 charge of any such association for the payment or de-
39 livery so made.

40 (d) Any building and loan or federal savings and loan
41 association may issue shares, share accounts, or accounts
42 in the name of any administrator, executor, guardian,
43 trustee, or other fiduciary, in trust for a named beneficiary
44 or beneficiaries. Any such fiduciary shall have all the
45 rights and privileges of membership, except the right to
46 hold office. The payment or delivery of rights by any
47 such association to any such fiduciary, or a receipt, re-
48 lease, acquittance, or discharge signed by any such
49 fiduciary, to whom any such payment, or any such de-
50 livery of rights is made, shall be a valid and sufficient
51 release and discharge of any such association for the pay-
52 ment or delivery so made. Whenever a person holding
53 shares, share accounts, or accounts in a fiduciary capacity
54 dies and no written notice of the revocation or termina-
55 tion of the trust relationship shall have been given to any
56 such association, the withdrawal value of such shares,

57 share accounts, or accounts, and dividends thereon, or
58 other rights relating thereto, may, at the option of the
59 association, be paid or delivered, in whole or in part, to the
60 beneficiary or beneficiaries of such trust. The payment
61 or delivery of rights to any such beneficiary or bene-
62 ficiaries, or a receipt, release, acquittance, or discharge
63 signed by any such beneficiary or beneficiaries, to whom
64 any such payment, or any such delivery of rights is made,
65 shall be a valid and sufficient release and discharge of any
66 such association for the payment or delivery so made.

CHAPTER 10

(Com. Sub. for House Bill No. 205—Originating in the House Committee on the Judiciary)

AN ACT to amend chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended by chapter fifty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, by adding thereto a new section twenty-one-a, relating to municipal administration and control of flood walls.

[Passed March 1, 1943; in effect from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

21-a. Flood wall board; creation; members; powers and funds.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended by chapter fifty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended by adding thereto a new section twenty-one-a to read as follows:

Section 21-a. *Flood Wall Board; Creation; Members; Powers and Funds.*—In any municipality which now maintains and operates a flood wall or walls for protection against floods by virtue of the provisions of this act,

5 or any municipality which may hereafter construct, main-
6 tain and operate any such flood wall or walls under the
7 provisions of this act or any amendment hereafter made
8 hereto, the municipal authorities thereof may, in their
9 discretion, provide by ordinance that the custody, ad-
10 ministration, operation and maintenance of such flood
11 wall or walls shall be under the supervision and control
12 of a board. If and when such ordinance is enacted creating
13 such board, fixing the manner and method of the appoint-
14 ment thereof, and reciting therein its purpose to accept
15 the provisions of this section, then such ordinance shall
16 not thereafter be repealed or amended in such manner
17 as to impair or defeat the purposes therein stated for
18 which it was enacted. Such board shall consist of the
19 number of members fixed in the ordinance creating the
20 board, and the manner and mode of their selection and
21 appointment shall be stated in such ordinance. The mem-
22 bers of the board shall be chosen without regard to their
23 political affiliations, but with regard to their business and
24 professional experience or standing as citizens in the
25 community. The chief executive officer of the munici-
26 pality shall ex officio be a member and, if he so elects,
27 the chairman of such board.

28 Except as herein otherwise provided, the board shall
29 have the power to establish by-laws, rules and regulations
30 for its own government which are not in conflict with the
31 provisions of this act or the ordinance creating it, but
32 the board shall not have the power to levy or collect
33 ad valorem or any other taxes or assessments. The mu-
34 nicipal authorities shall provide adequate funds to meet
35 the needs of the board in accordance with the purposes
36 of this act and in accordance with the purposes of the
37 ordinance creating the board. All expenses, including at-
38 torney's fees of such board, shall be paid solely from
39 funds provided under the authority of this act.

CHAPTER 11

(Senate Bill No. 28—By Mr. Hardesty)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section three-a, relating to police courts.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

3-a. Appointment of police court judge in municipality with population of twenty thousand or more.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be numbered section three-a, to read as follows:

Section 3-a. *Appointment of Police Court Judge in Municipality with Population of Twenty Thousand or More.*—The governing body of any municipality with a population of twenty thousand or more may provide, by ordinance, for the appointment therein of an officer to be known as police court judge and fix his compensation within the limits of the respective applicable charter provisions, and prescribe the exercise by him of such of the powers and duties set forth in section three of article four, and similar or related powers and duties enumerated in the respective applicable charter provisions, as is deemed proper by the respective governing bodies.

CHAPTER 12

(Com. Sub. for Senate Bill No. 165—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the compensation of municipal officers.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

2. Compensation of officers in municipalities with population of two thousand or less.

Be it enacted by the Legislature of West Virginia:

That section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 2. *Compensation of Officers in Municipalities with Population of Two Thousand or Less.*—In any municipal corporation of this state, where no provision is made by legislative charter or otherwise for compensation to municipal officers and employees, the mayor, recorder, superintendent of roads, streets and alleys, members of the council and policemen of such corporation, may each receive compensation for his services, to be fixed by the council, by proper ordinance, which shall not be increased or diminished during the term for which they shall have been elected or appointed. The compensation of each member of the council, other than the mayor and recorder, shall not exceed the sum of five dollars for each meeting of the council held at which such member is in actual attendance; and, in no event, shall a councilman, other than the mayor and recorder, receive compensation in any one fiscal year in excess of the sum of seventy-five dollars. Where employed and acting as such, the compensation of the sergeant in regard to the arrest of persons, the collection of claims, and the execution and return of process,

21 shall be the same as that of a constable, except that he
22 shall receive for his services, in the collection of taxes and
23 assessments and such license and other fees as it is his
24 duty under the law to collect, a compensation, to be fixed
25 by the council, of not exceeding five per cent on the
26 amount duly collected and accounted for. The provisions
27 of this section shall apply only to municipal corporations
28 with population of two thousand or less.

CHAPTER 13

(House Bill No. 273—By Mr. Woodyard)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section twenty-three-a, relating to funds of municipalities raised for certain purposes.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

23-a. Disposition of funds raised for certain purposes where priority restrictions make it impossible to use such funds presently.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be numbered section twenty-three-a, to read as follows:

Section 23-a. *Disposition of Funds Raised for Certain Purposes Where Priority Restrictions Make It Impossible to Use Such Funds Presently.*—Any municipality in this state that has raised, or which shall hereafter raise, by taxation or otherwise, any funds for the purpose of enlarging, improving, replacing or repairing its municipally owned or operated water works, electric power or sewage disposal systems, and is unable to obtain the materials

9 and equipment necessary for that purpose on account of
10 priority restrictions imposed by the federal government
11 on the sale of such materials and equipment, or for any
12 other reason, may, by proper resolution of its council,
13 or other governing body, place said funds in a special fund
14 until such time as such materials and equipment shall
15 become available to said municipality. When such ma-
16 terials and equipment shall become available to said mu-
17 nicipality, it shall by proper resolution of its council, or
18 other governing body, use said funds for the purpose, or
19 purposes, for which the same were raised.

CHAPTER 14

(Com. Sub. for House Bill No. 289—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend article two-a, chapter twenty-nine of the
code of West Virginia, one thousand nine hundred thirty-
one, as last amended and reenacted by chapter seventy-
two, acts of the Legislature, regular session, one thousand
nine hundred thirty-five, by adding thereto a new section
to be designated section two-a, relating to the state board
of aeronautics.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 2-a. State Board of Aeronautics.

Section

2-a. Funds for county or municipal airports.

Be it enacted by the Legislature of West Virginia:

That article two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter seventy-two, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended by adding thereto a new section, to be designated section two-a, to read as follows:

Section 2-a. *Funds for County or Municipal Airports.*—

2 Such board, out of any appropriations made to it by the

3 Legislature or out of any funds at its disposal, may make
4 funds available by grant or otherwise to counties and
5 municipalities for the construction, improvement or
6 maintenance of airports or landing fields owned or oper-
7 ated by such counties or municipalities, and the removal
8 or correction of hazards dangerous to flying to meet the
9 requirements of the several agencies of the United States
10 government in aid of the prosecutions of World War II.
11 Acceptance of any moneys so made available to any
12 county or municipality shall constitute the consent by the
13 recipient that such airport or landing field may be used
14 by the United States government, the state, or any of
15 their respective agencies, including the state board of
16 aeronautics and the national guard of West Virginia, for
17 state purposes related or incidental to aeronautics.

CHAPTER 15

(Senate Bill No. 198—By Mr. Johnston, by request)

AN ACT to amend and reenact section twenty-five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties of mayors and police officers of municipalities to aid in the enforcement of the criminal laws of the state, and granting them authority to arrest violators of state laws.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

25. Municipal officers to aid in enforcing criminal laws of state.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 25. *Municipal Officers to Aid in Enforcing Criminal Laws of State.*—It is hereby made the duty of the mayor and the police of a municipality to aid in the enforcement of the criminal laws of the state within the municipality, independently of any provision of the charter or of any ordinance or want of an ordinance of such municipality, and to arrest or cause the arrest of any offender and take him before a justice of the peace of the county to be dealt with according to the law. Failure on the part of any such officer to discharge any duty imposed by this section shall be deemed official misconduct for which he may be removed from office. Such officer shall have the same authority to execute a warrant issued by a justice of the peace, and the same authority to arrest without a warrant for offenses committed in his presence, as has a constable.

CHAPTER 16

(Senate Bill No. 199—By Mr. Johnston, by request)

AN ACT to amend and reenact section five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the powers and duties of sergeants and policemen, and requiring sergeants to give bond.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

5. Powers and duties of sergeants and policemen; bond of sergeant.

Be it enacted by the Legislature of West Virginia:

That section five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. *Powers and Duties of Sergeants and Police-*

2 *men; Bond of Sergeant.*—In addition to the powers and
3 duties prescribed in section two, article seven of this
4 chapter, the sergeant shall have all the powers, rights and
5 privileges within the corporate limits of the town in re-
6 gard to the arrest of persons, the collection of claims,
7 and the execution and return of process that can legally
8 be exercised by a constable of a district within the same.
9 In order to arrest for violation of municipal ordinances
10 and as to all matters arising within the corporate limits
11 and coming within the scope of his official duties, the
12 powers of the sergeant or of any policeman shall extend
13 anywhere within the county or counties in which the
14 municipality is situated. For an offense committed in
15 his presence such officer may arrest the offender without
16 a warrant and take him before the mayor or other police
17 court to be dealt with according to law. He and his
18 sureties shall be liable to all the fines, penalties and for-
19 feitures that a constable of a district is liable to, for any
20 failure or dereliction in such office, to be recovered in the
21 same manner and in the same courts in which such fines,
22 penalties and forfeitures are now recovered against such
23 constable. The sergeant shall, before entering upon the
24 duties of his office, execute a bond, conditioned according
25 to law, with surety satisfactory to the council, payable to
26 the town, in such penalty, not less than one thousand dol-
27 lars, as the council may prescribe.

CHAPTER 17

(Senate Bill No. 161—By Mr. Burchett)

AN ACT to provide for the voluntary working of county prisoners in county buildings and institutions and upon county public works; to relieve the sheriff from liability for injury, damage, or death; and to reenact section four, article fifteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, and to amend and reenact section five, article fifteen, chapter seventeen of

the code, as amended, relating to guards for county prisoners.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Article 15. County Convict Road Force.

Section

4. Voluntary work by county prisoners; relief of sheriffs from liability for injuries, etc.
5. Guards for county prisoners; monthly statement as to prisoners.

Be it enacted by the Legislature of West Virginia:

That section four, article fifteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted, and that section five of said article, as amended, be amended and reenacted, all to read as follows:

Section 4. *Voluntary Work by County Prisoners; Relief of Sheriffs from Liability for Injuries, etc.*—Any person confined in the county jail, who is able-bodied, of sound mind and over the age of sixteen years, whether imprisoned under conviction or awaiting trial, may voluntarily consent to perform labor within the jail, as a trusty or otherwise, or in and upon the buildings, grounds, institutions, bridges and public works of the county, under the supervision, care and custody of the sheriff, his deputies, jailer and guards, and, if the sheriff be satisfied as to his or her trustworthiness, the sheriff may assign such prisoner, either singly or with others, to suitable work and labor in and about the jail and the other buildings, institutions and grounds and the bridges and other public works of the county, under such humane and safe methods of discipline and protection and such regulations as the sheriff may adopt or prescribe, and permit and cause such prisoner to work and labor therein and thereat, without liability of any kind upon the sheriff, his jailer, deputies, guards or agents in charge of such prisoner, for damages for accidents, injury or death to such prisoner or to third persons or for damage to property, which may occur from any cause whatsoever except for accident, injury, death or damage resulting directly from the sheriff's neglect, malfeasance or carelessness. The

26 consent of the prisoner to perform such work shall be in
27 writing, duly acknowledged.

Sec. 5. *Guards for County Prisoners; Monthly Statement as to Prisoners.*—The sheriff, with the approval of the county court, may employ a sufficient number of persons to guard the prisoners, not in excess of one for each ten prisoners, or a lesser number in one group, and with said approval shall fix the wages of such guards, and shall have the control and authority over them. The wages of such guards shall be reasonable and shall be paid by the county court out of the county treasury.

The keeper of the jail shall file with the clerk of the county court a monthly statement showing the number of prisoners sentenced to work under this article, the number of prisoners who may volunteer and be allowed by the sheriff to work hereunder, and the number of days' work each prisoner has performed, and the allowance to the sheriff for their keep, food, maintenance and supplies, in accordance with the provisions of section twelve, article seven, chapter seven of the code of West Virginia.

All acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

CHAPTER 18

(Senate Bill No. 51—By Mr. Young)

AN ACT to repeal section five, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, and to enact a new section five and sections five (one) to five (fifty-six) inclusive of said article and chapter, relating to compensation of county assessors and deputies.

[Passed March 6, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.**Section****5. Annual salary.**

5-(1) to 5-(55). Salary of the assessors in the various counties of the state.

5-(56). Commission on capitation taxes collected; payment of salaries of assessors and their deputies, assistants and employees.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be repealed, and that a new section five and sections five (one) to five (fifty-six) of said article and chapter be enacted to read as follows:

Section 5. *Annual Salary*.—The annual salary of the
2 assessor in each county shall, on and after January one,
3 one thousand nine hundred forty-five, be as follows:

Sec. 5-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand two hundred dollars.

Sec. 5-(2). *Berkeley County*.—For the county of
2 Berkeley, two thousand dollars.

Sec. 5-(3). *Boone County*.—For the county of Boone,
2 two thousand one hundred dollars.

Sec. 5-(4). *Braxton County*.—For the county of Brax-
2 ton, one thousand eight hundred dollars.

Sec. 5-(5). *Brooke County*.—For the county of Brooke,
2 two thousand one hundred dollars.

Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 three thousand six hundred dollars.

Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, one thousand two hundred dollars.

Sec. 5-(8). *Clay County*.—For the county of Clay, one
2 thousand four hundred forty dollars.

Sec. 5-(9). *Doddridge County*.—For the county of
2 Doddridge, one thousand six hundred dollars.

2 Sec. 5-(10). *Fayette County*.—For the county of Fayette, three thousand six hundred dollars.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gilmer, one thousand eight hundred dollars.

2 Sec. 5-(12). *Grant County*.—For the county of Grant, one thousand five hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of Greenbrier, one thousand eight hundred dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of Hampshire, one thousand six hundred dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Hancock, two thousand two hundred dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy, one thousand five hundred fifty dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Harrison, four thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jackson, one thousand five hundred dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, two thousand dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, five thousand dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis, two thousand six hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, two thousand dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan, three thousand dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion, three thousand dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason, one thousand eight hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of
2 McDowell, three thousand nine hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mer-
2 cer, three thousand six hundred dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
2 eral, two thousand dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 two thousand seven hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of
2 Monongalia, two thousand six hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, one thousand three hundred fifty dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Mor-
2 gan, one thousand two hundred dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of
2 Nicholas, one thousand eight hundred twenty dol-
3 lars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio,
2 three thousand eight hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of
2 Pendleton, one thousand five hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of
2 Pleasants, one thousand two hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of
2 Pocahontas, one thousand two hundred dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Pres-
2 ton, two thousand six hundred dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Put-
2 nam, one thousand eight hundred dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Ral-
2 eigh, three thousand dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of
2 Randolph, two thousand five hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of
2 Ritchie, one thousand seven hundred dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane,
2 one thousand eight hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of
2 Summers, one thousand five hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
2 two thousand dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
2 one thousand six hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
2 two thousand two hundred dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Up-
2 shur, two thousand dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of
2 Wayne, two thousand six hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
2 ster, one thousand three hundred fifty dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wet-
2 zel, two thousand six hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one
2 thousand one hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
2 two thousand eight hundred dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of
2 Wyoming, three thousand dollars.

2 Sec. 5-(56). *Commission on Capitation Taxes Collected;*
2 *Payment of Salaries of Assessors and Their Deputies, As-*
3 *stants and Employees*.—In addition to the above salary,
4 each assessor shall receive a commission of ten per cent on
5 all state school, road and municipal capitation taxes col-
6 lected by him. The salaries of assessors and their deputies,
7 assistants and employees shall be paid out of the county
8 fund at the time and in the manner now provided by law
9 for paying other county officers.

CHAPTER 19

(Senate Bill No. 193—By Mr. Bowers, by request)

AN ACT to amend and reenact section seven, article one, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the compensation of assessors for gathering statistics.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 1. Department of Agriculture.

Section

7. Compensation of assessor for gathering statistics required by commissioner of agriculture.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 7. *Compensation of Assessor for Gathering Statistics Required by Commissioner of Agriculture.*—The county court of each county shall allow the assessor a reasonable compensation, not exceeding ten per cent of his salary, for such work as may be required of him under this article by the commissioner of agriculture, and no county court shall allow pay to assessors for performance of duties herein prescribed until such assessor has received a certificate that his reports are completed and satisfactory to said commissioner.

CHAPTER 20

(Senate Bill No. 230—By Mr. Fleming)

AN ACT requiring all county clerks to place of record an honorable discharge from the armed forces of the United States held by any person having served in such armed forces and providing that no fee is to be charged therefor, and

making recorded discharges legal evidence for certain purposes; and providing for the issuance of certain certificates by county clerks.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Section

1. County clerks required to record honorable discharges from the armed forces of the United States and issue certain certificates to soldiers and veterans without fee therefor; recorded discharges as proof of date of birth.

Be it enacted by the Legislature of West Virginia:

Section 1. County Clerks Required to Record Honorable

2 Discharges From the Armed Forces of the United States
3 and Issue Certain Certificates to Soldiers and Veterans
4 Without Fee Therefor; Recorded Discharges as Proof of
5 Date of Birth.—An honorable discharge from the armed
6 forces of the United States, held by any and all persons,
7 shall be recorded by a county clerk in a special record
8 book, free of any and all fees or costs therefor. This book
9 shall be kept on file in the office of the clerk of the county
10 court of the county in which the person holding such
11 discharge resides: Provided, That upon application to
12 the vital statistics department, or any other agency auth-
13 orized to issue birth certificates in this state, the original
14 discharge, or a certified copy from the clerk's office,
15 where same is recorded, shall be taken as proof of the
16 date of birth of the veteran for all purposes, and no other
17 or further proof shall be required.

18 The county clerk of any county shall furnish records of
19 marriage, divorce, adoption, birth or death, which he
20 may have in his possession, without fee, to veterans of
21 any war, soldiers in service, or the dependents of such
22 veterans or soldiers, when these records are necessary
23 to obtain benefits from the federal or state governments.

CHAPTER 21

(House Bill No. 345—By Mr. Ballard)

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter sixteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

[Passed March 10, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

6. Assistants and stenographers for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter sixteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 6. *Assistants and Stenographers for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute.*—Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one (and Ohio, Harrison, Kanawha, Fayette, Raleigh, Cabell and McDowell counties two each) practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath and may perform the same duties as his principal; and he may be removed from office as such at any time by his principal; and further he may be removed from his office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of

16 such assistant shall be paid by the principal, except
17 in the counties of Barbour, Berkeley, Boone, Brooke,
18 Cabell, Calhoun, Fayette, Harrison, Hancock, Kanawha,
19 Lewis, Lincoln, Logan, Marion, Marshall, McDowell,
20 Mercer, Mineral, Mingo, Monongalia, Nicholas, Ohio,
21 Putnam, Raleigh, Randolph, Summers, Taylor, Upshur,
22 Wayne, Wetzel, Wood and Wyoming, and in said coun-
23 ties the county court thereof shall allow annually to
24 such assistants such compensation to be paid out of the
25 county treasury as is deemed reasonable by the court;
26 in Ohio county for the first assistant, three thousand
27 dollars, and for the second assistant not to exceed two
28 thousand four hundred dollars; in Kanawha county for
29 the first assistant, not less than four thousand nor more
30 than five thousand dollars, and for the second assistant
31 not less than four thousand nor more than five thousand
32 dollars; in Cabell county, not more than twenty-four
33 hundred dollars for each assistant; in McDowell county,
34 not less than one thousand eight hundred dollars nor
35 more than two thousand four hundred dollars for each
36 assistant; in Marion county, not less than two thousand
37 nor more than three thousand dollars; in Raleigh county,
38 not more than three thousand dollars; in Mingo county,
39 not to exceed two thousand four hundred dollars; in
40 Harrison, Logan and Mercer counties, not less than one
41 thousand five hundred nor more than three thousand
42 dollars; in Summers and Wood counties, not less than
43 one thousand nor more than two thousand dollars; in
44 Fayette county for the first assistant, not less than two
45 thousand four hundred nor more than three thousand
46 two hundred dollars, and for the second assistant not
47 to exceed one thousand eight hundred dollars; in Boone
48 and Wyoming counties, not less than one thousand two
49 hundred nor more than one thousand eight hundred
50 dollars; in Barbour county, one thousand dollars; in
51 Monongalia county, two thousand four hundred dollars;
52 in Wayne county, two thousand dollars; in Berkeley
53 county, not to exceed one thousand two hundred dollars;
54 in Lewis, Lincoln, Marshall, Mineral, Nicholas, Ran-
55 dolph and Upshur counties, not to exceed twelve
56 hundred dollars; in Wetzel county, not less than six

57 hundred nor more than nine hundred dollars; in Taylor
58 county, not to exceed six hundred dollars; in Putnam
59 and Calhoun counties, three hundred dollars. In each
60 case such compensation shall include the compensation
61 provided by law for such assistant's services as attorney
62 for boards of education and other administrative boards
63 and officers of the county.

64 In any case in which it would, in the opinion of the
65 court, be improper for the prosecuting attorney and his
66 assistant (if he has one) to act, or if the prosecuting
67 attorney and his assistant be unable to act, such court
68 shall appoint some competent practicing attorney to
69 prosecute such case, and upon the performance of the
70 service for which he was appointed, the court shall certify
71 that fact, with its opinion of what would be a reasonable
72 allowance to such attorney for the service rendered, to
73 the county court of the county, and such sum, or a dif-
74 ferent sum, when allowed by the county court, shall be
75 paid out of the county treasury: *Provided*, That nothing
76 in this section shall be construed to prohibit the em-
77 ployment by any person of a competent attorney or at-
78 torneys to assist in the prosecution of any person or cor-
79 poration charged with crime.

80 In each of the counties herein named, except Harrison,
81 and including Greenbrier, Lewis, Hampshire, Pocahontas,
82 Putnam, Ritchie, Roane and Upshur, the prosecuting
83 attorney may employ a stenographer for his office at
84 a salary, payable out of the county treasury, of not
85 less than nine hundred nor more than two thousand
86 dollars per annum; except, the annual salary of such
87 stenographer in Barbour, Lewis, Pocahontas and Taylor
88 counties shall not exceed one thousand two hundred
89 dollars; in Upshur and Calhoun counties, shall not exceed
90 nine hundred dollars; in Hampshire, Roane and Monroe
91 counties, shall not exceed six hundred dollars, however,
92 for the county of Monroe, no payment of salary shall be
93 made as herein provided after January first, one thou-
94 sand nine hundred forty-five; in Berkeley county, shall
95 not be less than six hundred dollars nor exceed one
96 thousand two hundred dollars; in Putnam and Ritchie
97 counties, shall be seven hundred dollars; in Boone county,

98 shall be one thousand two hundred dollars; and in Brax-
99 ton county, shall be seven hundred twenty dollars;
100 in Webster county, shall be six hundred dollars; in Jef-
101 ferson county, shall not exceed nine hundred dollars:
102 *Provided*, That in each of the last two named counties
103 the prosecuting attorney may not employ a stenographer
104 except with the consent of the county court entered of
105 record.

106 In the county of Harrison, the prosecuting attorney
107 may employ two stenographers for his office at a salary
108 for each stenographer of not less than nine hundred
109 nor more than one thousand two hundred dollars per
110 annum, payable out of the county treasury.

111 In the counties of Clay and Wetzel, the prosecuting at-
112 torney may employ a clerk or a stenographer for his of-
113 fice at a salary of one thousand two hundred dollars per
114 annum, payable out of the county treasury.

115 In the counties of Mingo and Preston, the prosecuting
116 attorney may employ one stenographer for his office at
117 a salary not to exceed one thousand five hundred dollars
118 per annum, payable out of the county treasury.

119 In the county of Jackson, the prosecuting attorney may
120 employ one stenographer or clerk for his office at a sal-
121 ary of six hundred dollars per annum, payable out of the
122 county treasury.

CHAPTER 22

(Com. Sub. for House Bill No. 27—Originating in the House Committee on
Counties, Districts and Municipal Corporations)

AN ACT to amend and reenact sections five (three), five
(seventeen), five (twenty-two), five (twenty-five), five
(thirty), five (forty), five (forty-one), five (forty-nine),
five (fifty) and five (fifty-four), article one, chapter seven
of the code of West Virginia, one thousand nine hundred
thirty-one, as amended by chapter fourteen, acts of the
Legislature, regular session, one thousand nine hundred
forty-one, relating to salaries of county commissioners of

the counties of Boone, Lincoln, Harrison, Marshall, Mingo, Raleigh, Randolph, Wayne, Webster and Wyoming.

[Passed March 2, 1943; in effect from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section (Salaries of County Commissioners)

- 5-(3). Boone county.
- 5-(17). Harrison county.
- 5-(22). Lincoln county.
- 5-(25). Marshall county.
- 5-(30). Mingo county.
- 5-(40). Raleigh county.
- 5-(41). Randolph county.
- 5-(49). Wayne county.
- 5-(50). Webster county.
- 5-(54). Wyoming county.

Be it enacted by the Legislature of West Virginia:

That sections five (three), five (seventeen), five (twenty-two), five (twenty-five), five (thirty), five (forty), five (forty-one), five (forty-nine), five (fifty) and five (fifty-four), article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 5-(3). *Boone County*.—For the county of
2 Boone, seventy-five dollars per month.

Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, two hundred dollars per month.

Sec. 5-(22). *Lincoln County*.—For the county of Lin-
2 coln, seventy-five dollars per month.

Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, one hundred dollars per month.

Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 one hundred fifty dollars per month.

Sec. 5-(40). *Raleigh County*.—For the county of Ra-
2 leigh, one hundred twenty-five dollars per month.

Sec. 5-(41). *Randolph County*.—For the county of Ran-
2 dolph, fifty dollars per month.

2 Sec. 5-(49). *Wayne County*.—For the county of Wayne,
one hundred twenty-five dollars per month.

2 Sec. 5-(50). *Webster County*.—For the county of Webster,
fifty dollars per month.

2 Sec. 5-(54). *Wyoming County*.—For the county of Wyoming,
one hundred dollars per month.

CHAPTER 23

(Com. Sub. for House Bill No. 157—Originating in the House Committee on Counties, Districts and Municipal Corporations)

AN ACT to amend and reenact sections two and three, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as amended and reenacted by chapter eighty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as further amended and reenacted by chapter eighteen, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the salaries of clerks of the county courts and clerks of the circuit courts.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

2. Salaries of county clerks.
3. Salaries of circuit clerks.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter nineteen, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as amended and reenacted by chapter eighty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-seven and as further amended and

reenacted by chapter eighteen, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 2. *Salaries of County Clerks.*—The annual compensation of the clerk of the county court in each county shall, on and after January one, one thousand nine hundred forty-five, be as follows: Barbour county, two thousand two hundred dollars; Berkeley county, two thousand five hundred dollars; Boone county, two thousand four hundred dollars; Braxton county, two thousand four hundred dollars; Brooke county, one thousand nine hundred dollars; Cabell county, five thousand dollars; Calhoun county, one thousand seven hundred dollars; Clay county, one thousand seven hundred dollars; Doddridge county, one thousand eight hundred dollars; Fayette county, three thousand two hundred dollars; Gilmer county, one thousand eight hundred dollars; Greenbrier county, two thousand five hundred dollars; Hampshire county, one thousand eight hundred dollars; Hancock county, two thousand four hundred dollars; Harrison county, four thousand dollars; Jackson county, one thousand eight hundred dollars; Jefferson county, two thousand one hundred dollars; Kanawha county, five thousand five hundred dollars; Lewis county, two thousand five hundred dollars; Lincoln county, two thousand four hundred dollars; Logan county, three thousand three hundred dollars; Marion county, four thousand eight hundred dollars; Marshall county, three thousand dollars; Mason county, two thousand five hundred dollars; McDowell county, four thousand five hundred dollars; Mercer county, three thousand six hundred dollars; Mineral county, three thousand dollars; Mingo county, three thousand dollars; Monongalia county, three thousand six hundred dollars; Monroe county, one thousand eight hundred dollars; Morgan county, one thousand nine hundred dollars; Nicholas county, two thousand two hundred fifty dollars; Ohio county, four thousand five hundred dollars; Pleasants county, one thousand eight hundred dollars; Pocahontas county, one thousand eight hundred dollars; Preston county, two thousand three hundred dollars; Putnam county, two thousand two hundred

38 dollars; Raleigh county, three thousand six hundred dol-
39 lars; Randolph county, three thousand dollars; Ritchie
40 county, two thousand five hundred dollars; Roane county,
41 two thousand two hundred dollars; Summers county, one
42 thousand six hundred dollars; Taylor county, two thou-
43 sand dollars; Tucker county, one thousand nine hundred
44 dollars; Tyler county, two thousand dollars; Upshur
45 county, two thousand five hundred dollars; Wayne county,
46 two thousand seven hundred dollars; Webster county, two
47 thousand dollars; Wetzel county, two thousand six hun-
48 dred dollars; Wirt county, one thousand two hundred
49 dollars; Wood county, three thousand six hundred dollars;
50 Wyoming county, three thousand six hundred dollars.

Sec. 3. *Salaries of Circuit Clerks.*—The annual com-
2 pensation of the clerk of the circuit court (or clerk of
3 the circuit and criminal or intermediate or other court of
4 limited jurisdiction) in each county shall, on and after
5 January one, one thousand nine hundred forty-five, be as
6 follows: Barbour county, two thousand dollars; Berkeley
7 county, two thousand dollars; Boone county, two thou-
8 sand four hundred dollars; Braxton county, two thousand
9 four hundred dollars; Brooke county, two thousand one
10 hundred dollars; Cabell county, five thousand dollars;
11 Calhoun county, one thousand two hundred dollars; Clay
12 county, one thousand four hundred dollars; Doddridge
13 county, one thousand five hundred dollars; Fayette county,
14 three thousand dollars; Gilmer county, one thousand six
15 hundred dollars; Greenbrier county, one thousand eight
16 hundred dollars; Hampshire county, one thousand dollars;
17 Hancock county, two thousand four hundred dollars; Har-
18 rison county, four thousand dollars; Jackson county, one
19 thousand five hundred dollars; Jefferson county, two
20 thousand dollars; Kanawha county, five thousand five
21 hundred dollars; Lewis county, two thousand two hun-
22 dred dollars; Lincoln county, two thousand dollars; Logan
23 county, three thousand dollars; Marion county, four thou-
24 sand eight hundred dollars; Marshall county, two thou-
25 sand four hundred dollars; Mason county, one thousand
26 eight hundred dollars; McDowell county, four thousand
27 five hundred dollars; Mercer county, three thousand six

28 hundred dollars; Mineral county, three thousand dollars;
29 Mingo county, three thousand dollars; Monongalia county,
30 three thousand six hundred dollars; Monroe county, one
31 thousand two hundred dollars; Morgan county, one thou-
32 sand dollars; Nicholas county, two thousand dollars; Ohio
33 county, five thousand five hundred dollars; Pleasants
34 county, one thousand three hundred fifty dollars; Poca-
35 hontas county, one thousand eight hundred dollars; Pres-
36 ton county, two thousand dollars; Putnam county, one
37 thousand eight hundred dollars; Raleigh county, three
38 thousand three hundred dollars; Randolph county, two
39 thousand six hundred dollars; Ritchie county, one thou-
40 sand eight hundred dollars; Roane county, one thousand
41 eight hundred dollars; Summers county, one thousand
42 six hundred dollars; Taylor county, two thousand dol-
43 lars; Tucker county, one thousand six hundred dollars;
44 Tyler county, one thousand eight hundred dollars; Upshur
45 county, two thousand five hundred dollars; Wayne county,
46 two thousand four hundred dollars; Webster county, one
47 thousand eight hundred dollars; Wetzel county, two thou-
48 sand dollars; Wirt county, nine hundred dollars; Wood
49 county, three thousand dollars; Wyoming county, three
50 thousand six hundred dollars.

CHAPTER 24

(Com. Sub. for House Bill No. 191—Originating in the House Committee on
Counties, Districts and Municipal Corporations)

AN ACT to amend and reenact section five, article seven,
chapter seven of the code of West Virginia, one thousand
nine hundred thirty-one, and to add thereto sections
five-(one) to section five-(fifty-five), inclusive, relating
to the salaries of prosecuting attorneys.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the
Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.**Section****5. Salaries of prosecuting attorneys.**

Be it enacted by the Legislature of West Virginia:

That section five, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that sections five (one) to section five (fifty-five) be added thereto, all to read as follows:

Section 5. *Salaries of Prosecuting Attorneys.*—The annual compensation of the prosecuting attorney in each county, including the compensation provided by law for his services as attorney for boards of education and other administrative boards and officers in the county, shall, on and after January one, one thousand nine hundred forty-five, be in the amounts set forth in sections five (one) to five (fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County.*—For the county of Barbour, two thousand dollars.

Sec. 5-(2). *Berkeley County.*—For the county of Berkeley, one thousand eight hundred dollars.

Sec. 5-(3). *Boone County.*—For the county of Boone, two thousand four hundred dollars.

Sec. 5-(4). *Braxton County.*—For the county of Braxton, one thousand eight hundred dollars.

Sec. 5-(5). *Brooke County.*—For the county of Brooke, two thousand five hundred dollars.

Sec. 5-(6). *Cabell County.*—For the county of Cabell, four thousand eight hundred dollars.

Sec. 5-(7). *Calhoun County.*—For the county of Calhoun, one thousand two hundred dollars.

Sec. 5-(8). *Clay County.*—For the county of Clay, one thousand six hundred dollars.

Sec. 5-(9). *Doddridge County.*—For the county of Doddridge, one thousand two hundred dollars.

Sec. 5-(10). *Fayette County*.—For the county of Fayette, not less than three thousand six hundred dollars, nor more than four thousand two hundred dollars.

Sec. 5-(11). *Gilmer County*.—For the county of Gilmer, one thousand five hundred dollars.

Sec. 5-(12). *Grant County*.—For the county of Grant, one thousand dollars.

Sec. 5-(13). *Greenbrier County*.—For the county of Greenbrier, two thousand five hundred dollars.

Sec. 5-(14). *Hampshire County*.—For the county of Hampshire, one thousand dollars.

Sec. 5-(15). *Hancock County*.—For the county of Hancock, two thousand four hundred dollars.

Sec. 5-(16). *Hardy County*.—For the county of Hardy, one thousand dollars.

Sec. 5-(17). *Harrison County*.—For the county of Harrison, four thousand dollars.

Sec. 5-(18). *Jackson County*.—For the county of Jackson, one thousand two hundred dollars.

Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, not less than one thousand two hundred dollars, nor in excess of one thousand eight hundred dollars, the amount to be fixed within such limits by the county court of said county.

Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, six thousand dollars.

Sec. 5-(21). *Lewis County*.—For the county of Lewis, not less than two thousand dollars nor more than two thousand four hundred dollars.

Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, two thousand four hundred dollars.

Sec. 5-(23). *Logan County*.—For the county of Logan, three thousand six hundred dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
2 four thousand eight hundred dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, three thousand dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
2 two thousand dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of
2 McDowell, four thousand eight hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mer-
2 cer, three thousand six hundred dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
2 eral, two thousand dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 four thousand two hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of
2 Monongalia, four thousand dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, one thousand two hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Mor-
2 gan, one thousand dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicho-
2 las, two thousand two hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio,
2 four thousand seven hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of
2 Pendleton, one thousand dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of
2 Pleasants, one thousand two hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of
2 Pocahontas, one thousand two hundred dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Pres-
2 ton, two thousand five hundred dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Put-
2 nam, one thousand eight hundred dollars.

Sec. 5-(41). *Raleigh County*.—For the county of
2 Raleigh, not less than three thousand nor more than
3 four thousand eight hundred dollars.

Sec. 5-(42). *Randolph County*.—For the county of Ran-
2 dolph, three thousand dollars.

Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,
2 one thousand two hundred dollars.

Sec. 5-(44). *Roane County*.—For the county of Roane,
2 one thousand five hundred dollars.

Sec. 5-(45). *Summers County*.—For the county of Sum-
2 mers, one thousand six hundred dollars.

Sec. 5-(46). *Taylor County*.—For the county of Taylor,
2 two thousand two hundred dollars.

Sec. 5-(47). *Tucker County*.—For the county of Tucker,
2 one thousand two hundred dollars.

Sec. 5-(48). *Tyler County*.—For the county of Tyler, one
2 thousand two hundred dollars.

Sec. 5-(49). *Upshur County*.—For the county of Upshur,
2 one thousand five hundred dollars.

Sec. 5-(50). *Wayne County*.—For the county of Wayne,
2 two thousand four hundred dollars.

Sec. 5-(51). *Webster County*.—For the county of Web-
2 ster, one thousand eight hundred dollars.

Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
2 two thousand dollars.

Sec. 5-(53). *Wirt County*.—For the county of Wirt, six
2 hundred dollars.

Sec. 5-(54). *Wood County*.—For the county of Wood,
2 three thousand six hundred dollars.

Sec. 5-(55). *Wyoming County*.—For the county of Wy-
2 oming, not less than three thousand dollars, nor more
3 than four thousand dollars.

CHAPTER 25

(Senate Bill No. 66—By Mr. Morrison, by request)

AN ACT to amend and reenact sections eight and nine, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to compensation to be allowed to commissioners of courts and commissioners of accounts.

[Passed March 8, 1943; in effect from passage. Approved by the Governor.]

Article 1. Fees and Allowances.

Section

8. Compensation of commissioners of courts.
9. Compensation of commissioners of accounts.

Be it enacted by the Legislature of West Virginia:

That sections eight and nine, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 8. *Compensation of Commissioners of Courts.*—

- 2 A commissioner, except where it is otherwise specially
- 3 provided, shall be allowed for any service such com-
- 4 pensation as the court of which he is commissioner
- 5 may from time to time prescribe. The commissioner
- 6 shall indicate to the court, in writing, the compensation
- 7 he believes he is entitled to receive for services performed.
- 8 A commissioner shall not be compelled to make out
- 9 or return a report until his compensation therefor be
- 10 paid or security given him to pay so much as may be
- 11 adjudged right by the court to whom the report is to
- 12 be returned, or, if it be a circuit court or court of
- 13 limited jurisdiction, by the judge thereof in vacation,
- 14 unless the court or judge see cause to order it to be
- 15 made out and returned without such payment or se-
- 16 curity, and shall so order.

Sec. 9. *Compensation of Commissioners of Accounts.*—

- 2 A commissioner of accounts, except where it is other-

3 wise specially provided, shall be allowed for any serv-
4 ice such compensation as the court for which he is
5 such commissioner shall from time to time prescribe.
6 The commissioner shall indicate to the court, in writing,
7 the compensation he believes he is entitled to receive for
8 services performed.

CHAPTER 26

(Senate Bill No. 147—By Mr. Allen)

AN ACT to amend and reenact section eight, article eighteen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, pertaining to costs and executions in courts of justices of the peace.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 18. Criminal Jurisdiction and Procedure; Appeals.

Section

8. Costs; execution.

Be it enacted by the Legislature of West Virginia:

That section eight, article eighteen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 8. *Costs; Execution.*—Whether the trial is by
2 jury or not, if the judgment be against the accused, it
3 shall be for the costs of the proceeding in addition to the
4 fine and term of imprisonment imposed, and when the
5 accused is sentenced to imprisonment, whether a fine be
6 also imposed or not, or is imprisoned for nonpayment of
7 a fine and costs, the jailer's compensation for maintenance
8 of the prisoner shall be included in the costs, and paid
9 out of the justice fine fund of the county; but if the
10 justice fine fund is not sufficient to pay all such costs,
11 then to be paid out of the county fund general revenue.
12 Execution, to be collected out of the personal property

13 of the accused, may be issued on such judgment for fine
14 and costs, or for the costs alone, if the judgment be for
15 imprisonment and costs without fine. Fee bills may be
16 issued against the accused for costs incurred at his in-
17 stance, including the jailer's compensation, under the
18 same regulations and with like effect as in civil suits.

CHAPTER 27

(House Bill No. 43—By Mr. Farr)

AN ACT to amend and reenact section one-c, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relative to the terms of the circuit courts of the counties of Doddridge, Pleasants and Ritchie, composing the third judicial circuit, and the times for the commencing and holding of said terms.

[Passed February 9, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-c. Third circuit; terms of court.

Be it enacted by the Legislature of West Virginia:

That section one-c, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1-c. *Third Circuit; Terms of Court.*—For the
2 county of Doddridge, on the first Tuesday in April, August
3 and November.
4 For the county of Pleasants, on the second Tuesday in
5 January, the fourth Tuesday in April, and the second
6 Tuesday in September.
7 For the county of Ritchie, on the second Tuesday in
8 February and June, and the first Tuesday in October.

CHAPTER 28

(House Bill No. 232—By Mr. Reed)

AN ACT to amend and reenact section one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, providing for reference of an estate of decedent to a commissioner of accounts.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Article 2. Proof and Allowance of Claims Against Estates of Decedents.

Section

1. Estate of decedent to be referred to a commissioner of accounts.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Estate of Decedent to Be Referred to a Commissioner of Accounts.*—Upon the qualification of any personal representative, the estate of his decedent shall, by order of the county court to be then made, be referred to a commissioner of accounts for proof and determination of debts and claims, establishment of their priority, determination of the amount of the respective shares of the legatees and distributees, and any other matter necessary and proper for the settlement of the estate: *Provided*, That in counties where there are two or more such commissioners, the estates of decedents shall be referred to such commissioners in rotation, in order that, so far as possible, there may be an equal division of the work: *Provided further*, That, if and when, the personal representative shall file with the clerk of the county court an appraisal of the estate, showing its value to be two hundred dollars or less, then proceedings before the commissioner of accounts shall not be necessary, but the personal representative shall, within two months from his appointment, file with the county clerk his report of receipts and disbursements, and, unless some creditor or

22 heir shall within thirty days thereafter show good cause
23 why the report is not correct, the personal representative
24 and his bondsman shall be discharged.

CHAPTER 29

(House Bill No. 243—By Mr. Samms)

AN ACT to amend and reenact section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to salaries of judges of circuit courts and additional compensation from counties.

[Passed March 11, 1943; in effect April 1, 1943. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

4. Salaries of judges of circuit courts; additional compensation from counties.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

- Section 4. *Salaries of Judges of Circuit Courts; Additional Compensation from Counties.*—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:
- (1) In circuits having more than one hundred thousand population, seven thousand five hundred dollars;
 - (2) In circuits having more than eighty thousand and less than one hundred thousand population, seven thousand dollars;
 - (3) In circuits having more than sixty thousand and less than eighty thousand population, six thousand five hundred dollars;
 - (4) In circuits having more than forty thousand and

15 less than sixty thousand population, six thousand dol-
16 lars;

17 (5) In circuits having less than forty thousand popu-
18 lation, five thousand dollars.

19 A county court may pay the judge of the circuit ad-
20 ditional compensation, but the salary and additional com-
21 pensation shall not exceed seven thousand five hundred
22 dollars, except in circuits of over one hundred thousand
23 and less than one hundred seventy-five thousand popu-
24 lation, wherein the salary and additional compensation
25 shall not exceed eight thousand dollars; and except in
26 circuits of over one hundred seventy-five thousand popu-
27 lation or more, wherein the salary and additional compen-
28 sation shall not exceed nine thousand five hundred dol-
29 lars; and except further that in the first judicial circuit,
30 the board of county commissioners of Ohio county is
31 hereby authorized to pay additional compensation to the
32 judges of said circuit, but the amount of such compensa-
33 tion shall not exceed two thousand dollars per annum to
34 each of said judges. Said board of county commissioners
35 may arrange with the county courts of Brooke and Han-
36 cock counties, or either or both of said counties, whereby
37 either or both of said county courts may contribute toward
38 the payment of any such additional compensation so paid
39 to said judges.

40 The population shall be according to the United States
41 census, or the estimate of the United States bureau of
42 census, as certified to the state auditor by the United
43 States director of the census, last preceding the beginning
44 of the calendar year in which the salary is payable.

CHAPTER 30

(House Bill No. 89—By Mr. Evans)

AN ACT to repeal section nine and to amend and reenact section five, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the use of vehicles in aid of prostitution, to

houses of prostitution and assignation, prohibiting prostitution, lewdness, and assignation, prohibiting the letting or renting of any house, place, hotel, or other structure for the purpose of prostitution, lewdness or assignation, making such leases void, and defining the term "tourist camp".

[Passed March 2, 1943; in effect from passage. Approved by the Governor.]

Article 8. Crimes Against Chastity, Morality and Decency.

Section

8. Houses and places of ill fame and assignation; penalties; jurisdiction of courts.
9. Repealed.

Be it enacted by the Legislature of West Virginia:

That section nine, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that section five, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. *Houses and Places of Ill Fame and Assignation; Penalties; Jurisdiction of Courts.*—(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance, knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation,

21 or to permit any person to remain there for such pur-
22 pose; or who for another or others shall direct, take, or
23 transport, or offer or agree to take or transport, or aid
24 or assist in transporting, any person to any house, place,
25 building, hotel, tourist camp, other structure, vehicle,
26 trailer, or other conveyance, or to any other person with
27 knowledge or having reasonable cause to believe that the
28 purpose of such directing, taking, or transporting is pros-
29 titution, lewdness, or assignation; or who shall aid, abet,
30 or participate in the doing of any acts herein prohibited,
31 shall, upon conviction for the first offense under this
32 section, be punished by imprisonment in the county jail
33 for a period of not less than six months nor more than one
34 year, and by a fine of not less than one hundred dol-
35 lars and not to exceed two hundred fifty dollars, and
36 upon conviction for any subsequent offense under this
37 section shall be punished by imprisonment in the peni-
38 tentiary for a period of not less than one year nor more
39 than five years.

40 (b) Any person who shall engage in prostitution, lewd-
41 ness, or assignation, or who shall solicit, induce, entice,
42 or procure another to commit an act of prostitution,
43 lewdness, or assignation; or who shall reside in, enter,
44 or remain in any house, place, building, hotel, tourist
45 camp, or other structure, or enter or remain in any vehicle,
46 trailer, or other conveyance for the purpose of pros-
47 titution, lewdness, or assignation; or who shall aid, abet,
48 or participate in the doing of any of the acts herein
49 prohibited, shall, upon conviction for the first offense
50 under this section, be punished by imprisonment in
51 the county jail for a period of not less than sixty days
52 nor more than six months, and by a fine of not less
53 than fifty dollars and not to exceed one hundred dol-
54 lars; and upon conviction for the second offense under
55 this section, be punished by imprisonment in the county
56 jail for a period of not less than six months nor more
57 than one year, and by a fine of not less than one hun-
58 dred dollars and not to exceed two hundred fifty dollars,
59 and upon conviction for any subsequent offense under
60 this section shall be punished by imprisonment in the

61 penitentiary for not less than one year nor more than
62 three years.

63 The subsequent offense provision shall apply only to
64 the pimp, panderer, solicitor, operator or any person
65 benefiting financially or otherwise from the earnings of
66 a prostitute.

67 (c) All leases and agreements, oral or written, for
68 letting, subletting, or renting any house, place, build-
69 ing, hotel, tourist camp, or other structure which is used
70 for the purpose of prostitution, lewdness, or assignation,
71 shall be void from and after the date any person who is a
72 party to such an agreement shall be convicted of an of-
73 fense hereunder. The term "tourist camp" shall include
74 any temporary or permanent buildings, tents, cabins, or
75 structures, or trailers, or other vehicles which are main-
76 tained, offered, or used for dwelling or sleeping quarters
77 for pay.

78 (d) In the trial of any person, charged with a viola-
79 tion of any of the provisions of this section, testimony
80 concerning the reputation or character of any house,
81 place, building, hotel, tourist camp, or other structure, and
82 of the person or persons who reside in or frequent same,
83 and of the defendant or defendants, shall be admissible
84 in evidence in support of the charge. Justices of the peace
85 shall have concurrent jurisdiction with circuit, inter-
86 mediate, and criminal courts to try and determine the
87 misdemeanors set forth and described in this section.

Sec. 9. This section is hereby repealed.

CHAPTER 31

(House Bill No. 287—By Mr. Farr)

AN ACT to amend and reenact sections eighteen and nineteen,
article eleven, chapter sixty-one of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as last
amended by chapter twenty-six, acts of the Legislature,
regular session, one thousand nine hundred thirty-nine,

relating to the trial and punishment of second and third offenders.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 11. General Provisions Concerning Crimes.

Section

18. Punishment for second or third offense of felony.

19. Procedure in trial of persons for second or third offense.

Be it enacted by the Legislature of West Virginia:

That sections eighteen and nineteen, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 18. *Punishment for Second or Third Offense of Felony.*—When any person is convicted of an offense and is subject to confinement in the penitentiary therefor, and it is determined, as provided in section nineteen of this article, that such person had been before convicted in the United States of a crime punishable by imprisonment in a penitentiary, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in such case the court imposes an indeterminate sentence, five years shall be added to the maximum term of imprisonment otherwise provided for under such sentence.

When it is determined, as provided in section nineteen hereof, that such person shall have been twice before convicted in the United States of a crime punishable by confinement in a penitentiary, the person shall be sentenced to be confined in the penitentiary for life.

Sec. 19. *Procedure in Trial of Persons for Second or Third Offense.*—It shall be the duty of the prosecuting attorney when he has knowledge of former sentence or sentences to the penitentiary of any person convicted of an offense punishable by confinement in the penitentiary to give information thereof to the court immediately

7 upon conviction and before sentence. Said court shall,
8 before expiration of the term at which such person was
9 convicted, cause such person or prisoner to be brought
10 before it, and upon an information filed by the prose-
11 cuting attorney, setting forth the records of conviction
12 and sentence, or convictions and sentences, as the case
13 may be, and alleging the identity of the prisoner with
14 the person named in each, shall require the prisoner to
15 say whether he is the same person or not. If he says he
16 is not, or remains silent, his plea, or the fact of his
17 silence, shall be entered of record, and a jury shall be
18 impaneled to inquire whether the prisoner is the same
19 person mentioned in the several records. If the jury
20 finds that he is not the same person, he shall be sentenced
21 upon the charge of which he was convicted as provided
22 by law; but if they find that he is the same, or after
23 being duly cautioned if he acknowledges in open court
24 that he is the same person, the court shall sentence him
25 to such further confinement as is prescribed by section
26 eighteen of this article on a second or third conviction,
27 as the case may be.

28 The clerk of such court shall transmit a copy of said
29 information to the warden of the penitentiary, together
30 with the other papers required by the provisions of sec-
31 tion ten, article eight, chapter sixty-two of the code of
32 West Virginia, one thousand nine hundred thirty-one.

33 Nothing contained herein shall be construed as repeal-
34 ing the provisions of section four, article eight, chapter
35 sixty-two of the code of West Virginia, one thousand
36 nine hundred thirty-one, but no proceeding shall be in-
37 stituted by the warden, as provided therein, if the trial
38 court has determined the fact of former conviction or
39 convictions as provided herein.

CHAPTER 32

(Com. Sub. for House Bill No. 237—Originating in the House
Committee on the Judiciary)

AN ACT to amend and reenact section eighteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the period of and discharge from parole.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 12. Probation and Parole.

Section

18. Period of parole; discharge.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 18. *Period of Parole; Discharge.*—The period
2 of parole shall in all cases be the maximum period for
3 which, at the time of his release, the parolee was subject
4 to imprisonment under his definite term or general sen-
5 tence, as the case may be, but at any time after the ex-
6 piration of his definite term or general sentence, less time
7 deductions for good conduct and work as provided by law
8 for inmates of the penitentiary, the director of probation
9 and parole may, when in his judgment the ends of parole
10 have been attained, release the parolee from further
11 supervision and discharge him from parole, whereupon
12 the term or sentence imposed shall be fully completed and
13 satisfied.

CHAPTER 33

(Senate Bill No. 19—By Mr. Vickers)

AN ACT to amend and reenact section four, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the probation of offenders convicted in courts other than courts of record.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 12. Probation and Parole.

Section

4. Probation of offenders convicted in courts other than courts of record.

Be it enacted by the Legislature of West Virginia:

That section four, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Probation of Offenders Convicted in Courts*

- 2 *Other Than Courts of Record.*—Whenever any person is
3 found guilty of, or pleads guilty to, a crime in a court
4 which is not a court of record, he may, at any time there-
5 after, file with the court of record to which an appeal
6 would lie, or with the judge thereof in vacation, his peti-
7 tion in writing, together with a transcript of the docket
8 of the court in which he was convicted, requesting that
9 he be placed on probation. Upon the filing of such peti-
10 tion and transcript, said court of record or the judge
11 thereof, shall have power to suspend the execution of the
12 sentence of the lower court and to release the petitioner
13 on probation upon such conditions as to said court or
14 judge may seem fitting.

CHAPTER 34

(House Bill No. 81—By Mr. Janes)

AN ACT to amend and reenact section two, article six, chapter

sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, and to further amend said article by adding thereto a new section to be designated section two-a, relating to when recognizances are required, the contents thereof, the duration and effect of such recognizances, and cash deposits as recognizance without surety.

[Passed March 1, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 6. Recognizances in Criminal Cases.

Section

2. When recognizance required; contents.

2-a. Cash deposits as recognizance without surety.

Be it enacted by the Legislature of West Virginia:

That section two, article six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article be further amended by adding thereto a new section designated section two-a, all to read as follows:

Section 2. When Recognizance Required; Contents.—A

2 court, judge or justice letting any person to bail shall require a recognizance to be given.

4 Recognizances in criminal cases shall be payable to the state of West Virginia. Every such recognizance shall be in such sum and with such surety as the court or officer requiring it may direct; and if it be a witness, it may be with or without surety, as shall be deemed proper by the court or officer taking it. The condition of such recognizance shall be as follows, as the case may be:

11 (a) When it is taken of a person charged with a criminal offense, that he appear before the court, judge or justice, before whom the proceedings on such charge will be, at such time as may be prescribed by the court or officer taking it, then and there to answer for the offense with which such person is charged, and to any indictment concerning any such offense that may be thereafter returned, and then and there render himself amenable to the order and process of the court, judge or justice, and from term to term and time to time thereafter to which the proceedings concerning such charge, and in-

dictment may be continued, until the matter is finally terminated, and if convicted shall appear for judgment and render himself in execution thereof upon such day as the court, judge or justice may order;

(b) When it is taken of a witness in a case against any person charged with an offense, that such witness will appear at such time as may be prescribed by the court or officer taking such recognizance, and give evidence on such charge before the grand jury, court, judge or justice before whom such charge may be pending, and from term to term and time to time thereafter until all matters concerning such charge shall be finally terminated;

(c) And in either of the foregoing cases, that the person so charged or said witness, as the case may be, shall not depart thence without the leave of said grand jury, court, judge or justice; and

(d) When taken for any other purpose than to appear so to answer or give evidence, that the person of whom it is taken shall keep the peace and be of good behavior for such time, not exceeding one year, as the court or officer requiring it may direct; and if such court or officer directs, it may, when taken of a person charged with an offense, be with condition for so keeping the peace and being of good behavior, in addition to the other conditions of his recognizance.

And when such recognizance is taken by a court or justice of a person to answer a charge, or of a witness to give evidence, it shall be sufficient for the order of the court or justice taking said recognizance to state that the person or persons recognized were duly recognized in such sum as the court may have directed with such surety as the court may have accepted for his or their appearance before the court, judge or justice, at such time as may have been prescribed by the court or justice, to answer for the offense with which such person is charged, or to give evidence, as the case may be.

Sec. 2-a. *Cash Deposits as Recognizance without Surety.*—Whenever a person arrested on a criminal charge has been admitted to bail by a court or an officer auth-

4 orized by law so to do, for his appearance before any
5 court, judge or justice, he may, instead of entering into
6 a recognizance with surety as required by law, give his
7 personal recognizance and deposit, or cause to be de-
8 posited for him, in cash, the amount of bail he is re-
9 quired to furnish, with the clerk of the circuit court of
10 the county, or with the clerk of any other court in which
11 he was admitted to bail, and the clerk with whom such
12 deposit is made shall give him a certificate thereof, and up-
13 on delivering said certificate to the court or officer admit-
14 ting him to bail, he shall be ordered to be released.

15 If there be no default in the observance of the con-
16 ditions of the recognizance, then, upon the termination of
17 the proceedings, the money so deposited, shall, by order
18 of the trial court or justice, be refunded to the defendant,
19 or upon his order; but if there be any such default, the
20 same action shall be taken, and the same proceedings
21 had, with like rules governing, so far as applicable, as
22 if the recognizance had been with surety instead of with
23 cash deposit aforesaid, and the clerk having the money
24 shall dispose of the same, if there be a judgment of
25 forfeiture, in the same manner as other money received
26 on account of forfeited recognizances is required to be
27 disposed of.

28 The defendant may surrender himself at any time be-
29 fore default in the same manner as sureties may surren-
30 der their principal, and the money so deposited shall
31 thereupon, by order of the court or officer to which or
32 to whom such surrender was made, be returned to the
33 defendant, or on his order.

CHAPTER 35

(House Bill No. 30—By Mr. Callahan)

AN ACT to amend and reenact article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter

twenty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to adoption.

[Passed March 5, 1943; in effect from passage. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Article 4. Adoption.

Section

1. Who may adopt; petition to circuit court; consent of parents.
2. Contents of petition; age of petitioners.
3. Proceedings on petition; appointment of next friend; contents of decree.
4. Recording of decree, fees of clerk; records of adoption proceeding; notice to registrar of vital statistics; birth certificate.
5. Effect of decree as to relations of parent and child and rights of inheritance.
6. Revocation of adoption by judicial proceedings or by child itself at majority.
7. Adoption of adults.
8. Jurisdiction of courts.

Be it enacted by the Legislature of West Virginia:

That article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

- Section 1. *Who May Adopt; Petition to Circuit Court; Consent of Parents.*—It shall be lawful for any person not married, or any husband with his wife's consent, or any wife with her husband's consent, or any husband and wife jointly, to petition the circuit court of the county wherein he, she or they may reside, or the judge of such court in vacation, for permission to adopt any minor child, and also to petition for a change of name of such child: *Provided*, That if such child be of the age of twelve years, or over, the written consent of such child to such adoption, given in the presence of the judge having jurisdiction thereof, must be obtained and presented with the petition, and also the written consent, duly acknowledged, of the parent or parents, if living; or, if both parents should be dead or unknown, or insane, or shall have abandoned the child sought to be adopted, or have been deprived of the custody of the person of such child by law, then and in such case, the written consent, acknowledged

19 as aforesaid, of the legal guardian of such child or those
20 having at the time the legal custody of the child, shall
21 be obtained and so presented. And if there be no legal
22 guardian nor any person having the legal custody of the
23 child, then such consent must be obtained from some
24 discreet and suitable person appointed by the court or
25 judge thereof to act as the next friend of such child in
26 the adoption proceedings. No such petition shall be made
27 or presented until after the child sought to be adopted
28 shall have lived in the home of the adopting parent or
29 parents for a period of six months.

Sec. 2. *Contents of Petition; Age of Petitioners.*—Such
2 petition shall set forth the name, age and place of resi-
3 dence of the petitioner or petitioners, and of the child, and
4 the name by which the child shall be known; whether
5 such child be possessed of any property, and a full de-
6 scription of the same, if any; whether such child has
7 either father or mother, or both, and if he, she or they are
8 alive, then the name or names, and place of residence of
9 such father or mother, or if such be the fact, that the
10 same are unknown to the petitioner or petitioners.

11 The persons petitioning as aforesaid shall be at least
12 fifteen years older than the child sought to be adopted,
13 and the petition shall be duly verified according to law.

Sec. 3. *Proceedings on Petition; Appointment of Next
2 Friend; Contents of Decree.*—Upon the presentation of
3 such petition to the court, or judge thereof in vacation,
4 the same shall be ordered filed with the clerk of such
5 court, and the court or judge thereof shall appoint
6 a day for the hearing of such petition and the examina-
7 tion under oath of the parties in interest. And the
8 court or judge thereof may adjourn the hearing of such
9 petition or the examination of the parties in interest
10 from time to time, as the nature of the case may re-
11 quire. Between the time of the filing of the petition for
12 adoption and the hearing thereon, the court may cause a
13 discreet inquiry to be made respecting the child, for the
14 purpose of ascertaining whether such child is a proper
15 subject for adoption, and shall cause a discreet inquiry to
16 be made respecting the home of the petitioner or petition-

17 ers to determine whether it is a suitable home for such
18 child. Such inquiry shall be made by any suitable person
19 or agency designated by the court, and the results thereof
20 shall be embodied in a full written report and shall be
21 submitted to the court at or prior to the hearing upon
22 the petition, and shall be filed with the records of the pro-
23 ceeding and become a part thereof. If it shall be neces-
24 sary, under the provisions of this article, that a discreet
25 and suitable person shall be appointed to act as the next
26 friend of the child sought to be adopted, then and in that
27 case the court or judge thereof shall order a notice of
28 the petition and of the time and place when and where the
29 appointment of next friend will be made, to be published
30 in some newspaper of general circulation in the county
31 where such court is located, once a week for two consecu-
32 tive weeks; and at the time and place so named and
33 upon due proof of the publication of such notice, the
34 court or judge thereof shall make such appointment, and
35 shall thereupon assign a day for the hearing of such
36 petition and the examination of the parties interested.
37 Upon the day so appointed the court or judge thereof shall
38 proceed to a full hearing of the petition and examination
39 of the parties in interest, under oath, and of such other
40 witnesses as the court or the judge thereof may deem
41 necessary to fully develop the standing of the petitioners
42 and their responsibility, and the status of the child
43 sought to be adopted; and if the court or judge thereof
44 shall be of the opinion from the testimony that the facts
45 stated in the petition are true, and if upon examination
46 the court or the judge thereof is satisfied that the peti-
47 tioner is, or the petitioners are, of good moral character,
48 and of respectable standing in the community, and are
49 able properly to maintain and educate the child sought
50 to be adopted, and that the best interests of the child
51 would be promoted by such adoption, then and in such
52 case the court or judge thereof shall make a decree re-
53 citing at length the facts proved and the name by which
54 the child shall thereafter be known, and declaring and
55 adjudging that from the date of such decree, the rights,
56 duties, privileges and relations, theretofore existing be-
57 tween the child and his or her parent or parents, shall be

58 in all respects at an end, excepting the right of inheritance;
59 and that the rights, duties, privileges and relations be-
60 tween the child and his or her parent or parents by
61 adoption, shall thenceforth in all respects be the same,
62 including the right of inheritance, as if the child had
63 been born to such adopting parent or parents in lawful
64 wedlock, except only as otherwise provided in this ar-
65 ticle.

Sec. 4. *Recording of Decree, Fees of Clerk; Records of*
2 *Adoption Proceeding; Notice to Registrar of Vital Sta-*
3 *tistics; Birth Certificate.*—The decree shall be recorded in
4 a book kept for that purpose, and the clerk shall receive
5 the same fees as in other cases in the circuit court or juve-
6 nile court, as the case may be. All records of proceedings in
7 adoption cases and all papers and records relating to such
8 proceedings shall be kept in a sealed file and shall not be
9 open to inspection or copy by anyone other than the par-
10 ties of record or their legal representatives, except upon
11 court order for good cause shown. No person in charge of
12 adoption records shall disclose the names of the adopting
13 parent or parents or adopted child except by court order.
14 Immediately upon the entry of such a decree of adoption,
15 the court shall direct the clerk thereof forthwith to make
16 and deliver to the state registrar of vital statistics a certifi-
17 cate under the seal of said court, showing:

18 (1) The date and place of birth of the adoptee, if
19 known;

20 (2) The names of the natural parents of the adoptee, if
21 known;

22 (3) The name by which said child has previously been
23 known;

24 (4) The names and addresses of the adopting parents;

25 (5) The name by which the child is to be thereafter
26 known; and

27 (6) Such other information from the record of said
28 adoption proceedings as may be required by the law of
29 this state relating to vital statistics, and as may enable the
30 state registrar of vital statistics to carry out the duty im-
31 posed upon him by this section.

32 Upon receipt of said certificate the said registrar of

33 vital statistics shall forthwith issue and deliver by mail
34 to the adopting parents at their last known address a
35 birth certificate in form required by law, except that the
36 name of the adoptee shown in said certificate shall be
37 the name given him by the decree of adoption.

Sec. 5. *Effect of Decree as to Relations of Parent and*
2 *Child and Rights of Inheritance.*—Upon the entry of such
3 decree of adoption, the parents of the child, if living,
4 shall be divested of all legal rights and obligations in
5 respect to the child, and the child shall be free from
6 all legal obligations of obedience or otherwise to the
7 parents, and the adopting parent or parents of the child
8 shall be invested with every legal right in respect to
9 obedience and maintenance on the part of the child,
10 as if such child had been born to them in lawful wedlock;
11 and the child shall be invested with every legal right,
12 privilege, obligation and relation in respect to educa-
13 tion, maintenance, and the right of inheritance in the
14 estate of such adopting parent or parents as if born
15 to him or them in lawful wedlock; except that such child
16 shall not be capable of taking property expressly lim-
17 ited to the heirs of the body of the adopting parent or
18 parents, nor property coming from the lineal or colla-
19 teral kindred of such adopting parent or parents by
20 right of representation: *Provided*, That on the death of the
21 adopting parent or parents and the subsequent death of
22 the child so adopted without issue, the property of such
23 adopting deceased parent or parents shall descend to or
24 be distributed among the next of kin of such parent or
25 parents, and not the next of kin of the child adopted:
26 *Provided further*, That if such adopting parent or parents
27 shall have another child or children, theirs by birth,
28 then, and in that case, the adopted child shall share the
29 inheritance with the child or children born to the adopt-
30 ing parent or parents, and in such case also, such adopted
31 child and such child or children by birth shall respectively
32 inherit from and through each other the property and
33 estate of the adopting parent or parents, as if all had been
34 children of such parent or parents born in lawful wedlock.
35 If, however, the adopting parent is, at the time of adop-

tion, married to one of the natural parents of the child, the relation of the child to such natural parent shall be in no way altered or affected by the provisions of this act.

Sec. 6. *Revocation of Adoption by Judicial Proceedings or by Child Itself at Majority.*—A parent or guardian of a minor, when a minor is adopted under the provisions of this article, who had no notice of the proceedings, may, at any time within a year after receiving notice thereof, apply by petition to the circuit court in which the petition mentioned in the first section was filed, praying that the adoption may be vacated. The court applied to shall fix a date for a hearing, shall cause notice thereof to be given to the person or persons who were permitted to adopt such minor, and, at the time so fixed, shall hear the petitioner and all parties interested, and may vacate or affirm the adoption in its discretion. Any party interested may appeal to the supreme court of appeals from the decision of the circuit court in the matter, as in cases of appeals in chancery matters. When any minor has been adopted, he may, within one year after becoming of age, sign, seal and acknowledge before proper authority, in the county in which the decree of adoption was made, a dissent from such adoption, and file such instrument of dissent in the office of the clerk of the county court of such county, and such clerk shall record and index the same. Upon the filing of such instrument of dissent the adoption shall be vacated.

Sec. 7. *Adoption of Adults.*—Any adult person who is a resident of West Virginia may petition the circuit court for permission to adopt one who has reached the age of twenty-one years or over, and, if desired, to change the name of such person. The consent of the person to be adopted shall be the only consent necessary. The order of adoption shall create the same relationship between the adopting parent or parents and the person adopted, and the same rights of inheritance as in the case of an adopted minor child. If a change in name is desired, the adoption order shall so state.

Sec. 8. *Jurisdiction of Courts.*—In counties where the

- 2 circuit court does not sit as a juvenile court, concurrent
- 3 jurisdiction in adoption proceedings is hereby extended to
- 4 such juvenile courts.

CHAPTER 36

(Com. Sub. for Senate Bill No. 92—Originating in the Senate
Committee on Finance)

AN ACT to amend and reenact section eleven, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the allocation of state aid to public schools and providing for increased salaries for teachers.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

11. Allocation of state aid; salary increase for teachers.

Be it enacted by the Legislature of West Virginia:

That section eleven, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 11. *Allocation of State Aid; Salary Increase for*

- 2 *Teachers.*—The board of finance shall then proceed to
- 3 allocate the amount available for distribution as state aid
- 4 (as certified by the state auditor in accordance with sec-
- 5 tion six-a, article nine of this chapter) among the several
- 6 counties as follows:
- 7 (1) The board of finance shall first allocate to each
- 8 county (a) forty-five per cent of the cost of the founda-
- 9 tion program for that county, or (b) an amount equal
- 10 to the difference between the cost of the foundation
- 11 program for that county and the local share of revenue
- 12 for that county; whichever of (a) or (b) is greater.

13 (2) The board of finance shall next allocate to each
14 county an amount to be computed by multiplying by
15 two hundred twenty-five the number of teachers ac-
16 tually employed by the county board for the current
17 school year, which number, for purposes of this sub-
18 section, shall in no instance exceed the number of teachers
19 approved for employment in such county by the board
20 of finance. It is the purpose of this subsection to pro-
21 vide for each teacher so approved a salary increase of
22 twenty-five dollars per month.

23 No part of the funds distributed under this subsection
24 shall be available for any purpose other than teachers'
25 salaries and no part of same shall be made available to
26 any county board which reduces salaries below the
27 salaries paid to teachers for the school year one thou-
28 sand nine hundred forty-two and one thousand nine hun-
29 dred forty-three, including the legal minimum salary
30 plus the excess salary paid by the county board for the
31 school year one thousand nine hundred forty-two and one
32 thousand nine hundred forty-three, except that such ex-
33 cess salary may be reduced on the approval of the board
34 of finance when such reduction is based on any or all of
35 the following factors affecting local revenues out of
36 which such excess salaries were paid: (a) Rejection by
37 the voters of the county of a special levy previously ap-
38 proved by the voters of the county and effective during
39 the school year one thousand nine hundred forty-two
40 and one thousand nine hundred forty-three or one thou-
41 sand nine hundred forty-three and one thousand nine
42 hundred forty-four; (b) a substantial decline in the
43 amount of revenue; (c) or other reasons approved by
44 the board of finance. The allocation made by this sub-
45 section (2) shall terminate on the thirteenth day of June,
46 one thousand nine hundred forty-five.

47 The additional salary received by any teacher as a
48 result of the provisions of this subsection shall not be
49 counted as earnable compensation for purposes of com-
50 puting members' contributions to the accumulation fund
51 of the state teachers' retirement system as prescribed in
52 section fourteen, article seven-a of this chapter.

53 (3) The board of finance shall then allocate the amount

54 remaining for distribution as state aid, after the require-
55 ments of (1) and (2) above have been met, among the
56 several counties of the state in a uniform proportion
57 to the number of teachers allotted each county. The
58 amount to be received by a county under this subsec-
59 tion shall be computed by multiplying the amount avail-
60 able for distribution to all the counties by the number
61 of teachers allotted to that county divided by the total
62 number of teachers allotted to all the counties of the
63 state.

64 The amount of state aid to be received by each county
65 shall be the sum of the amounts determined as the re-
66 sult of (1), (2) and (3) above, and shall be used by the
67 several counties in the support of the schools. No county
68 shall employ more than the allotted number of teachers
69 without the prior consent of the board of finance. By
70 allotted number of teachers is meant the sum of three
71 per cent of the corrected average daily attendance in
72 elementary schools and four per cent of the corrected
73 average daily attendance in high schools. In determin-
74 ing the corrected average daily attendance, under this
75 paragraph, a non-isolated elementary school shall be
76 counted as one full school and not as one-fourth of a
77 school.

CHAPTER 37

(Senate Bill No. 64—By Mr. Boreman)

AN ACT to amend and reenact section three, article five, chap-
ter twenty-one of the code of West Virginia, one thousand
nine hundred thirty-one, as last amended, relating to
assignment of wages.

[Passed March 1, 1943; in effect from passage. Approved by the Governor.]

Article 5. Wages.

Section

3. Payment of wages by employers other than railroads; assignment of wages.

Be it enacted by the Legislature of West Virginia:

That section three, article five, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 3. *Payment of Wages by Employers Other Than Railroads; Assignment of Wages.*—Every person, firm or corporation doing business in this state, except railroad companies as provided in section one of this article, shall settle with its employees at least once in every two weeks, unless otherwise provided by special agreement, and pay them the amount due them for their work or services in lawful money of the United States, or by the cash order as described and required in the next succeeding section of this article: *Provided, however,* That if, at any time of payment, any employee shall be absent from his regular place of labor and shall not receive his wages through a duly authorized representative, he shall be entitled to such payment at any time thereafter upon demand upon the proper paymaster at the place where such wages are usually paid and where the next pay is due.

Nothing herein contained shall affect the right of an employee to assign part of his claim against his employer except as hereafter provided.

No assignment of or order for future wages shall be valid for a period exceeding one year from the date of such assignment or order. Such assignment or order shall be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgments, and such order or assignment shall specify thereon the total amount due and collectible by virtue of the same, and three-fourths of the periodical earnings or wages of the assignor shall at all times be exempt from such assignment or order and no assignment or order shall be valid which does not so state upon its face: *Provided further,* That no such order or assignment shall be valid unless the written acceptance of the employer of the assignor to the making thereof, is endorsed thereon: *Provided further,* That nothing herein contained shall be construed as affecting the right of employer and employees to agree between them-

37 selves as to deductions to be made from the payroll of em-
38 ployees: *And provided further*, That nothing herein
39 contained shall be construed as affecting the right of
40 teachers who have elected to become members of a county
41 teachers' retirement system, as permitted by section two,
42 article seven-a, chapter thirty-six, acts of the Legislature
43 of West Virginia, regular session, one thousand nine
44 hundred forty-one, to make assignments of or orders
45 for future wages to such systems for periods coextensive
46 with the term of their contracts of employment.

CHAPTER 38

(House Bill No. 169—By Mr. Blankenship)

AN ACT to amend and reenact section twenty-five, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to high school certificates.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section

25. High school certificates.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirty-one, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

- Section 25. *High School Certificates*.—Certificates valid
- 2 in high schools are authorized to include:
 - 3 (1) First class high school certificate, valid for five
 - 4 years, issued to college graduates who complete a re-
 - 5 quired curriculum in an approved institution.
 - 6 (2) Provisional high school certificate, valid for one

7 year, issued to college graduates who complete a re-
8 quired curriculum in an approved institution.

9 (3) First class elementary certificate, valid for five
10 years, issued to college graduates who complete a re-
11 quired curriculum in an approved institution.

12 First class high school certificate and provisional high
13 school certificate, as above described, shall be valid in the
14 junior and senior high schools of the state. First class
15 elementary certificate, as above described, shall be valid
16 in elementary and junior high schools of the state. High
17 school certificates may be used in the elementary schools,
18 provided the holders have had one full year or more of
19 teaching or principalship experience in the elementary
20 grades prior to one thousand nine hundred thirty-four.
21 In all such cases, the teacher or principal shall file with
22 his certificate a certified statement of elementary ex-
23 perience to meet the above requirements.

CHAPTER 39

(Senate Bill No. 195—By Mr. Williams)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article designated as article nineteen, consisting of sections one to five, inclusive, providing educational opportunities for the children of deceased soldiers, sailors and marines who served in the armed forces of the United States during World War I and World War II; to repeal chapter forty-eight, acts of the Legislature, one thousand nine hundred thirty-five, and all other acts or parts of acts inconsistent herewith.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 19. Educational Opportunities for Children of Deceased World War I and World War II Veterans.

Section

1. Appropriation to provide educational opportunities.
2. Eligibility of applicant for benefits; application forms; preference.
3. No tuition fees to be charged; allowances expended by department of public assistance; when to cease.

4. When balances in fund revert to treasury.
5. Repeal of inconsistent acts.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, is hereby amended, by adding thereto a new article designated as article nineteen, consisting of sections one to five, inclusive, to read as follows:

Section 1. *Appropriation to Provide Educational Opportunities.*—For the purpose of providing educational opportunities for the children of those who served in the army, navy or marine corps of the United States during the world war from April sixth, one thousand nine hundred seventeen, to July second, one thousand nine hundred twenty-one, or served or may serve in the armed forces of the United States of America at any time between December first, one thousand nine hundred forty-one, and the declaration of peace by the Congress of the United States or as may be provided by law, all dates inclusive, and who were killed in action or have died or may hereafter die from disease or disability resulting from such war service, there shall be appropriated from the state fund general revenue the sum of at least five thousand dollars for each fiscal year commencing July first and ending on June thirty of each year of the next biennium to be used for the benefit of such children while attending state educational or training institutions.

Sec. 2. *Eligibility of Applicant for Benefits; Application Forms; Preference.*—To be eligible for the benefits of this act, said children must be at least sixteen and not more than twenty-two years of age and have had their domiciles in this state for at least twelve months preceding their application for said benefits. Such application shall be made to, and upon forms provided by, the department of public assistance of West Virginia, which department shall determine the eligibility of those who make such application and the yearly amount to be allotted each applicant, which amount, in the discretion of the department, may vary from year to year, but shall not exceed the sum of three hundred dollars in any one year. In

14 selecting those to receive the benefits of this act, prefer-
15 ence shall be given those who are otherwise financially
16 unable to secure said educational opportunities and to
17 those whose parent was domiciled in this state during
18 the period of such parent's war service.

Sec. 3. *No Tuition Fees to Be Charged; Allowances*
2 *Expended by Department of Public Assistance; When*
3 *to Cease.*—No tuition fee shall be charged such applicants
4 attending any state educational or training institution,
5 and the funds herein appropriated shall be expended by
6 said department of public assistance only for matricu-
7 lation fees, board, room rent, books, supplies and other
8 necessary living expenses of such children. Said de-
9 partment is charged with the duty of disbursing the
10 funds herein provided and shall draw its requisitions
11 upon the auditor for that purpose. In the discretion of
12 said department, such requisitions may be made payable
13 to said educational or training institutions or to those
14 furnishing to said children board, room rent, books, sup-
15 plies and other necessary living expenses, the depart-
16 ment being first satisfied as to the correctness and
17 amounts of such expenditures. Should any child with-
18 draw from any such institution, all allowances to such
19 child shall cease. No member or employee of said de-
20 partment shall receive any additional compensation for
21 the services herein required.

Sec. 4. *When Balances in Fund Revert to Treasury.*—
2 Balances in this fund remaining at the end of any fiscal
3 year, shall not revert to the treasury but shall be avail-
4 able for use during the subsequent fiscal years, except
5 that any balance accruing and remaining at the end of
6 the fiscal year beginning July first, one thousand nine
7 hundred sixty-two, shall revert to the treasury.

Sec. 5. *Repeal of Inconsistent Acts.*—Chapter forty-
2 eight, acts of the Legislature of West Virginia, regular
3 session, one thousand nine hundred thirty-five, and all
4 other acts or parts of acts inconsistent herewith, are
5 hereby repealed.

CHAPTER 40

(Senate Bill No. 111—By Mr. Fleming)

AN ACT to repeal sections eleven, twelve, twelve-a and thirteen, and to amend and reenact section ten, all of article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to enumeration of school youth, handicapped children and adults.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section

10. Enumeration of children of school age and of mentally and physically handicapped persons; records.

Be it enacted by the Legislature of West Virginia:

That sections eleven, twelve, twelve-a and thirteen, all of article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be repealed, and that section ten of the same article be amended and reenacted to read as follows:

Section 10. *Enumeration of Children of School Age and of Mentally and Physically Handicapped Persons; Records.*—A statewide school census of all youths aged four to twenty years, inclusive, as of September first of the year in which taken, or of such ages as otherwise may be determined by regulation of the state board of education, and of mentally and physically handicapped persons of all ages, shall be made during the first week of the school term one thousand nine hundred forty-three, and one thousand nine hundred forty-four, and at a corresponding time each five years thereafter. The school census shall be taken by the teachers under direction of the county superintendent and in accordance with regulations of the state board of education. Teachers taking the school census shall be entitled to use school hours not to exceed a total of one school day, and shall be compensated for such

17 time as for time taught. Forms for taking the school
18 census shall be prescribed by the state superintendent of
19 schools.

20 In order that the census record may be as currently
21 accurate as possible, and a reliable source of reference
22 through the school year, it shall be the duty of each county
23 superintendent of schools to establish and administer
24 through the office of the county director of school attend-
25 ance a system of cumulative census records prescribed
26 by the state superintendent of schools.

27 Sections eleven, twelve, twelve-a and thirteen, article
28 seven, chapter eighteen of the code of West Virginia, one
29 thousand nine hundred thirty-one, are hereby repealed.

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CHAPTER 41

(House Bill No. 378—By Mr. Holt, of Lewis)

AN ACT to amend article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be numbered section one-a, relating to compulsory school attendance in the war emergency.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 8. Compulsory School Attendance.

Section

1-a. Excusing pupils from school attendance to engage in food production program of war emergency.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section to be numbered section one-a, to read as follows:

Section 1-a. *Excusing Pupils from School Attendance*
2 *to Engage in Food Production Program of War Emer-*
3 *gency.*—Beginning with the effective date of this act and

4 continuing through the school years one thousand nine
5 hundred forty-three—one thousand nine hundred forty-
6 four, and one thousand nine hundred forty-four—one
7 thousand nine hundred forty-five, pupils may, upon evi-
8 dence approved by the principal or teacher, be excused
9 from school attendance while actually engaged in work-
10 ing gardens and on farms in the food production program
11 of the war emergency. The provisions of this section shall
12 be restricted to food production only, and shall be exer-
13 cised in a manner not to violate state and federal labor
14 laws. This section shall become non-effective June thir-
15 tieth, one thousand nine hundred forty-five.

CHAPTER 42

(Senate Bill No. 185—By Mr. Pelter)

AN ACT to amend article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, numbered section thirty-a, relating to the renewal of teachers' certificates held by those who have entered, or may enter, the armed forces of the United States during the present war, commonly called World War II.

[Passed March 4, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section

30-a. Renewal of certificates held by those serving in armed forces of the United States.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section, numbered thirty-a, to read as follows:

Section 30-a. *Renewal of Certificates Held by Those
2 Serving in Armed Forces of the United States.*—Any

3 teacher's certificate, of any class, held by anyone who
4 has entered, or may hereafter enter, the armed forces of
5 the United States during the present war, commonly
6 referred to as World War II, if valid and in force at the
7 time of such entry, shall be, at its expiration, automat-
8 ically renewed for the duration of said war and for one
9 year after the date said war shall have been officially de-
10 clared to have ended and/or for one year after an hon-
11 orable discharge has been granted to the holder thereof.

12 Said renewal shall have the same force and effect as
13 if the holder thereof actually had been actively engaged in
14 teaching during the time for which any such certificate
15 shall be so renewed.

16 It shall be the duty of the county superintendent to
17 see that all such certificates, without reminder or appli-
18 cation on the part of the holder, upon expiration, are
19 renewed as above provided. The state department of
20 education shall prepare, and send to county superin-
21 tendents, special forms on which shall be printed the
22 form of recommendation by the county superintendent.

CHAPTER 43

(House Bill No. 256—By Mr. Holt, of Lewis)

AN ACT to amend article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be designated section thirteen-a, relating to the return of retired teachers to teaching service as a war emergency measure without loss of prior service retirement credit.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

13-a. Resumption of teaching by retired teachers.

Be it enacted by the Legislature of West Virginia:

That article seven-a, chapter eighteen of the code of West

Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section to be designated section thirteen-a, to read as follows:

Section 13-a. *Resumption of Teaching by Retired Teachers.*—For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair the teacher's eligibility for a prior service pension. For the duration of the present war and until such time thereafter as the state board of education shall have declared by resolution that a teacher emergency no longer obtains, teachers who have been retired on pension under the provisions of this article may resume teaching without forfeiting their pension rights granted upon first retirement, but will not be entitled to receive pension for the period of resumed teaching. When the amount received within any school year from teaching equals or exceeds the amount of pension for that year, such teachers shall not receive pension allowance for those months of the school year following the months taught. The pension allowance granted on first retirement shall be promptly resumed at such time as the teacher shall have filed with the retirement board a certified statement of withdrawal from teaching, together with any additional information the board may require, provided it is shown that the amount received from teaching was less than the amount that would have been received from pension that year; otherwise, the pension allowance shall be resumed at the end of the school year. The annuity paid any such teacher on first retirement resulting from the teachers' accumulation fund and the employers' accumulation fund shall continue throughout the teaching period and thereafter according to the option selected by the teacher upon first retirement: *Provided*, That retired teachers who resume teaching will not be eligible to make any further contribution to the teachers' accumulation fund and thus not affect the annuity under the option selected when first retiring.

CHAPTER 44

(House Bill No. 353—By Mr. Berry)

AN ACT to amend article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be numbered section eleven-a, relating to the distribution of state aid to schools during the war emergency.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

11-a. Adjusting state aid to the war emergency.

Be it enacted by the Legislature of West Virginia:

That article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section to be numbered section eleven-a, to read as follows:

Section 11-a. *Adjusting State Aid to the War Emergency.*—In order that an abnormal absence of pupils from school to work in food production during the war emergency may not unduly disrupt the normal allotment of state aid under the provisions of this article, the board of finance is hereby authorized to base its computations for the distribution of state aid to be used during the school years one thousand nine hundred forty-three, one thousand nine hundred forty-four, and one thousand nine hundred forty-five, on the average daily attendance for the second to the seventh months of school inclusive of the school years one thousand nine hundred forty-two, one thousand nine hundred forty-three, and one thousand nine hundred forty-four, respectively.

CHAPTER 45

(House Bill No. 358—By Mr. Knight)

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section ten-a, relating to the adoption of textbooks by the state board of education.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section

10-a. Public school textbooks not to be changed until war is over.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section ten-a, to read as follows:

Section 10-a. *Public School Textbooks Not to Be Changed Until War Is Over.*—The state board of education shall not hold any hearings or accept any bids or make any changes in the textbooks now under contract for use in the public schools of the state until the cessation of hostilities in which the United States of America is now engaged.

CHAPTER 46

(House Bill No. 257—By Mr. Holt, of Lewis)

AN ACT to amend and reenact section seventeen, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirty-six, acts of the Legislature, regular session, one

thousand nine hundred forty-one, relating to retirement credit for services in the armed or auxiliary forces of the United States.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

17. Statement and computation of teachers' service; credit for services in armed or auxiliary forces of the United States.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 17. *Statement and Computation of Teachers'*

2 *Service; Credit for Services in Armed or Auxiliary Forces*
3 *of the United States.*—Under such rules and regulations
4 as the retirement board may adopt, each teacher shall file
5 a detailed statement of his length of service as a teacher
6 for which he claims credit. The retirement board shall de-
7 termine what part of a year is the equivalent of a year of
8 service. In computing such service, however, it shall cre-
9 dit no period of more than a month's duration during
10 which a member was absent without pay, nor shall credit
11 for more than one year service performed in any calendar
12 year.

13 The retirement board shall grant prior service credit
14 for service in any of the armed or auxiliary forces of the
15 United States in any period of national emergency within
16 which a federal selective service act was in effect, if such
17 service in any of the armed or auxiliary forces interrupted
18 service as a teacher. Such service shall be deemed equiva-
19 lent to public school teaching, and the salary equivalent
20 for each year of such service shall be the actual salary of
21 the member as a teacher for his last year of teaching next
22 preceding induction into military service.

23 Subject to the above provisions and to such rules and
24 regulations as the retirement board shall adopt, the board

25 shall verify as soon as practicable the statements of serv-
26 ice submitted.

27 The retirement board shall issue prior service certi-
28 ficates to members eligible to receive prior service pen-
29 sions under this article. Such certificates shall state the
30 length of such prior service in the state.

CHAPTER 47

(Senate Bill No. 103—By Mr. Morrison)

AN ACT to amend and reenact section ten, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to lawful and unlawful election expenditures.

(Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.)

Article 8. Things Required; Practices Forbidden; Penalties.

Section

10. Lawful and unlawful election expenditures.

Be it enacted by the Legislature of West Virginia:

That section ten, article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 10. *Lawful and Unlawful Election Expenditures.*—No candidate, financial agent, or treasurer of a political committee, shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(a) For rent, maintenance and furnishing of offices to be used as political headquarters and for the payment of necessary clerks, stenographers, typists, janitors and messengers actually employed therein;

(b) For printing and distributing books, pamphlets, circulars and other printed matter and radio broadcasting and painting, printing and posting signs, ban-

14 ners and other advertisements, all relating to political
15 issues and candidates;

16 (c) For renting and decorating halls for public meet-
17 ings and political conventions; for advertising public
18 meetings, and for the payment of traveling expenses of
19 speakers and musicians at such meetings;

20 (d) For the necessary traveling and hotel expenses
21 of candidates, political agents and committees, and for
22 stationery, postage, telegrams, telephone, express,
23 freight and public messenger service;

24 (e) For preparing, circulating and filing petitions
25 for nomination of candidates;

26 (f) For examining the lists of registered voters, se-
27 curing copies thereof, investigating the right to vote
28 of the persons listed therein, and conducting proceed-
29 ings to prevent unlawful registration or voting;

30 (g) For conveying voters to and from the polls;

31 (h) For securing publication in newspapers and by
32 radio broadcasting of documents, articles, speeches,
33 arguments, and any information relating to any political
34 issue, candidate, or question or proposition, submitted
35 to a vote.

36 Every liability incurred and payment made shall be
37 at a rate and for a total amount which is proper and
38 reasonable and fairly commensurate with the services
39 rendered.

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CHAPTER 48

(Senate Bill No. 213—By Mr. Williams, by request)

AN ACT to amend and reenact section five, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine; to amend and reenact section six-a, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-five, acts of the Legislature, regular session, one

thousand nine hundred thirty-seven; and to amend and reenact section twelve, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the nomination of judges and other officers.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination of Candidates.

Section

- 5. Nomination of candidates for offices.
- 6-a. Filing fees and their disposition.
- 12. Form and contents of ballots.

Be it enacted by the Legislature of West Virginia:

That section five, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted; that section six-a, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted; and that section twelve, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted, all to read as follows:

- Section 5. *Nomination of Candidates for Offices.*—At
- 2 each primary election, the candidate or candidates of
 - 3 each political party for all offices to be filled at the en-
 - 4 suing general election by the voters of the entire state,
 - 5 of each congressional district, of each state senatorial
 - 6 district, of each judicial circuit except the first judicial
 - 7 circuit of West Virginia, of each county, except candidates
 - 8 for the office of judge of an inferior court in any county
 - 9 in the first judicial circuit, and of each magisterial dis-
 - 10 trict, in the state, shall be nominated by the voters of
 - 11 the different political parties, except that candidates for

12 membership on any county board of education shall be
13 nominated on a non-partisan ballot, and that no presi-
14 dential elector shall be nominated at a primary election.
15 Candidates for the offices of judge of the circuit and in-
16 ferior courts of the first judicial circuit shall continue
17 to be nominated at party conventions as provided in
18 section twenty-seven of this article, but said section
19 twenty-seven is hereby repealed and superseded by this
20 enactment in so far as said section heretofore relates to
21 the nomination of candidates for the office of judge of
22 courts of record of West Virginia, other than in the first
23 judicial circuit. In any primary election, the person re-
24 ceiving the highest number of votes of each political
25 party in all cases wherein one person only is to be elected,
26 and the persons receiving the highest number of votes,
27 to the number to be elected, in all cases in which two or
28 more persons are to be elected to the same office, in and
29 throughout the political division in which the person is
30 a candidate, and voted for as such, shall be nominated
31 as the party candidate, or candidates, for the office, or
32 offices, for which they are voted for at the primary elec-
33 tion: *Provided, however,* That with respect to nomina-
34 tions of commissioners of county courts, no two of such
35 commissioners shall be nominated as the party candidates
36 from the same magisterial district where more than one
37 such commissioner is to be so nominated at any primary
38 election, and if two or more persons residing in the same
39 district shall in any case receive the greater number of
40 votes cast at such primary election, then only the one
41 of such persons receiving the highest number shall be
42 declared nominated as the candidate of his party, and
43 the person living in another district who shall receive
44 the next highest number of votes shall be declared nom-
45 inated as the candidate of his party, and so on to the
46 next highest in another district; and in no event shall
47 any such candidate be nominated from the same magis-
48 terial district wherein an already elected or otherwise
49 qualified member of such county court resides and who
50 will continue to hold office after the beginning of the
51 term for which such nomination is made: *Provided fur-*
52 *ther,* That with respect to nominations of members of a

53 county board of education, no more than two of such
54 members shall be nominated from the same magisterial
55 district where more than two such members are to be
56 nominated at any primary election, and if more than
57 two persons residing in the same district shall receive
58 the greater number of votes cast at such primary elec-
59 tion, then only the two of such persons receiving the
60 highest number shall be declared nominated, and the
61 person or persons living in another district who shall
62 receive the next highest or two highest number of votes,
63 as the case may be, shall be declared so nominated, and
64 so on to the next highest in another district; and in no
65 event shall any such candidate or candidates be nom-
66 inated from the same magisterial district wherein two
67 already elected or otherwise qualified members of such
68 board of education reside and who will continue to hold
69 office after the beginning of the term for which such
70 nomination or nominations are made, except that, one
71 such nomination may be made for the same magisterial
72 district wherein only one such already elected or other-
73 wise qualified member resides and will continue to hold
74 office as aforesaid.

Sec. 6-a. *Filing Fees and Their Disposition.*—Every
2 person who becomes a candidate for nomination for of-
3 fice in any primary election, shall, at the time of filing
4 the certificate of announcement as required in section
5 five-a, or section six of this article, pay a filing fee as
6 follows:

7 (a) A candidate for United States senator, for mem-
8 ber of the United States house of representatives, for
9 governor, and for all other state elective offices, shall pay
10 a fee equivalent to one per cent of the annual salary of
11 the office for which the candidate announces.

12 (b) A candidate for the office of judge of a circuit
13 court and judge of any court of record of limited jur-
14 isdiction shall pay a fee equivalent to one per cent of the
15 annual salary of the office for which the candidate an-
16 nounces.

17 (c) A candidate for member of the house of
18 delegates shall pay a fee of ten dollars, and a candi-

19 date for state senator shall pay a fee of twenty dol-
20 lars.

21 (d) A candidate for sheriff, prosecuting attorney, cir-
22 cuit clerk, county clerk, assessor, member of the county
23 court and member of the county board of education shall
24 pay a fee equivalent to one per cent of the annual salary
25 of the office for which the candidate announces: *Pro-*
26 *vided, however,* That the fee in no case shall be less than
27 five dollars. A candidate for any other county office
28 shall pay a fee of five dollars.

29 (e) A candidate for justice of the peace in districts
30 having a population of five thousand or less, shall pay a
31 fee of ten dollars; in districts having a population of
32 more than five thousand and not more than twenty-five
33 thousand, fifteen dollars, and in districts having more
34 than twenty-five thousand population, each candidate
35 shall pay a fee of twenty-five dollars.

36 (f) A candidate for constable in districts having a
37 population of five thousand or less, shall pay a fee of
38 five dollars; in districts having a population of more than
39 five thousand and not more than twenty-five thousand,
40 ten dollars, and in all other districts fifteen dollars.

41 (g) Delegates and alternate delegates to the national
42 convention of any political party shall pay the following
43 filing fees:

44 A candidate for delegate-at-large shall pay a fee of
45 twenty dollars; a candidate for alternate delegate-at-large
46 shall pay a fee of ten dollars; a candidate for delegate
47 from a congressional district shall pay a fee of ten dol-
48 lars; and a candidate for alternate delegate from a con-
49 gressional district shall pay a fee of five dollars.

50 (h) Candidates for members of political executive
51 committees and other political committees shall pay the
52 following filing fees:

53 A candidate for member of a state executive committee
54 of any political party shall pay a fee of ten dollars; a
55 candidate for member of a county executive committee
56 of any political party shall pay a fee of one dollar; and a
57 candidate for member of a congressional, senatorial or
58 judicial committee of any political party shall pay a fee
59 of one dollar.

60 Candidates filing for an office to be filled by the voters
61 of one county shall pay the filing fee to the clerk of the
62 circuit court, and candidates filing for an office to be
63 filled by the voters of more than one county shall pay
64 the filing fee to the secretary of state at the time of filing
65 their certificates of announcement, and no certificate of
66 announcement shall be received until the filing fee is paid.

67 All moneys received by the circuit clerk from such
68 fees shall be credited to the general county fund. Moneys
69 received by the secretary of state from fees paid by can-
70 didates for offices to be filled by all the voters of the state
71 shall be deposited in a special fund for that purpose and
72 shall be apportioned and paid by him to the several coun-
73 ties on the basis of population, and that received from
74 candidates from a district or judicial circuit of more than
75 one county shall be apportioned to the counties compris-
76 ing the district or judicial circuit in like manner. When
77 such moneys are received by sheriffs, it shall be credited
78 to the general county fund.

2 Sec. 12. *Form and Contents of Ballots.*—The official
3 primary ballot shall contain at the left of each column
4 of names of candidates, a perpendicular column, and
5 shall be so printed as to leave a square at the left of
6 each name on the ballot.

7 On such primary ballot, the names of candidates for
8 president of the United States, for United States sen-
9 ator, for representative in Congress, and for delegates and
10 alternate delegates to the national convention of the
11 party, shall be placed in the first column of candidates;
12 the names of candidates for all state offices, and all other
13 offices to be filled by the voters of a political division
14 greater than a county, including the state executive com-
15 mittee, but excluding candidates for the offices of judge
16 of the first judicial circuit, in the second column; the
17 names of all candidates for county offices, including mem-
18 bers of the house of delegates, and congressional, judicial
19 and senatorial executive committees, but excluding can-
20 didates for the office of judge of any inferior court of
21 record in any county of the first judicial circuit, shall be
22 placed in the third column; and the names of all can-

22 didates for office in the magisterial districts shall be
23 placed in the fourth column.

24 The face of every primary election ballot shall con-
25 form as nearly as practicable to that used at the general
26 election.

27 The secretary of state, or the circuit court clerk, as
28 the case may be, shall arrange the names of the candidates
29 to be printed on the ballot in alphabetical order, accord-
30 ing to the surname, under the title of the respective of-
31 fices upon the ballot.

32 Immediately below the space so provided on the bal-
33 lot for listing the candidates affiliated with the respective
34 political party, there shall be printed in bold type the
35 caption: "Non-Partisan Nomination of Candidates for
36 _____ County Board of Education."

37 The names of the candidates for nomination to the re-
38 spective county board of education, the length of term
39 for which they announce their candidacy, and the num-
40 ber of candidates for which each voter is entitled to vote
41 shall be printed beneath said caption, without reference
42 to political party affiliation.

43 In printing each set of ballots the position of the names
44 of the candidates shall be changed in each office division
45 as many times as there are candidates in that office di-
46 vision. As nearly as possible an equal number of ballots
47 shall be printed after each change. In making the change
48 of position, the printer shall take the line of type con-
49 taining the first name in the office division concerned
50 and place it at the bottom of the list of names in that
51 division and move up the column so that the name that be-
52 fore was second shall be first, after the change. After the
53 ballots are printed they shall be kept in separate piles,
54 one pile for each change in position, and shall then be
55 gathered by taking one from each pile. Sample ballots
56 shall be in the same form as the official ballot, but the
57 order of the names thereon need not be alternated.

58 All ballots used in primary elections shall be printed
59 on paper conforming as nearly as practicable in weight,
60 texture, and color to the samples furnished by the secre-
61 tary of state, and the paper shall be sufficiently thick so
62 that the printing cannot be discernible from the back.

63 On the back of the ballot shall be printed in black ink
64 and in plain, legible, black face pica type, the name of
65 the political party as contained in the heading, followed
66 by the word "ballot". Under this designation shall be
67 printed two blank lines followed by the words "poll
68 clerks".

CHAPTER 49

(House Bill No. 371—By Mr. Davis and Mr. Ballard)

AN ACT to amend and reenact section nine, article four, and section five, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to the printing of ballots for elections.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article

4. Nomination of Candidates.

5. Conducting Election; Ascertaining and Certifying the Result.

Be it enacted by the Legislature of West Virginia:

That section nine, article four, and section five, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Article 4. Nomination of Candidates.

Section

9. Publication and printing of ballots.

Section 9. *Publication and Printing of Ballots.*—At least
2 twenty-five days before the holding of any primary elec-
3 tion, the ballot commissioners of each county shall pre-
4 pare from the lists and certificates of announcements, as
5 provided in this article, a sample official primary ballot
6 for each party, placing thereon the names of all the can-
7 didates of the respective political party, and, as the case
8 may be, the non-partisan candidates to be voted for at
9 such primary election. They shall publish the same in

10 two issues of a newspaper of general circulation pub-
11 lished in such county and representing such party, if one
12 there be; if not, then in some other newspaper published
13 in such county in two issues of such newspaper.

14 The ballot commissioners shall cause official ballots, to
15 not more than one and one-twentieth times the number
16 of registered voters in each election precinct of each po-
17 litical party, to be printed and delivered to them for hold-
18 ing the primary election.

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

5. Number of ballots; packages.

Section 5. *Number of Ballots; Packages.*—The board of
2 ballot commissioners shall, for each general election to be
3 held in their county, cause to be printed official ballots
4 to not more than one and one-twentieth times the number
5 of registered voters in the county. The ballots so printed
6 shall be wrapped and tied in packages, one for each pre-
7 cinct in their county, containing ballots to the number
8 of one and one-twentieth times the number of registered
9 voters in such precinct. Each package of ballots shall be
10 sealed with wax, and plainly marked with the number
11 of ballots therein, the name of the magisterial district, and
12 the number of the voting place therein, to which it is
13 intended to be sent. The names of the ballot commission-
14 ers shall also be indorsed thereon.

CHAPTER 50

(House Bill No. 236—By Mr. Davis)

AN ACT to repeal section twenty-seven, and to amend and reenact sections twenty-four, twenty-six, twenty-nine, thirty-two, thirty-four, thirty-five, and thirty-eight, article two; to amend and reenact section eighteen, article four; to amend and reenact section twenty-nine, article five; and sections three and seven, article six, all of chapter three

of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all relating to the registration of voters and the conduct of elections.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article

2. The Electorate; Registration of Voters.
4. Nomination of Candidates.
5. Conducting Election; Ascertaining and Certifying the Result.
6. Voting by Absentees.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections twenty-four, twenty-six, twenty-nine, thirty-two, thirty-four, thirty-five and thirty-eight, article two; section eighteen, article four; section twenty-nine, article five; and sections three and seven, article six, all of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. The Electorate; Registration of Voters.

Section

24. Absentee registration.
26. Registration procedure in office of the clerk of the county court.
29. Disability suffered since registration.
32. Challenge of right to register.
34. Time of transfer.
35. Change of name.
38. Time of hearings before county court.

Section 24. *Absentee Registration.*—Any person who
2 possesses the qualifications for registration, but who is
3 absent from the state or county on account of occupa-
4 tion, or for any other necessary cause, including service
5 in the armed forces of the United States, may at any time
6 except during the thirty days preceding any election,
7 register by mail according to the procedure prescribed by
8 the secretary of state: *Provided, however,* That any per-
9 son serving in any branch of the armed forces of the
10 United States may take and subscribe to the oath or oaths
11 required for absentee registration before any commis-
12 sioned officer of any branch of the armed service of the

13 United States. Such oath may be taken at any place either
14 within or without the United States of America, or any
15 territory, possession or dependency thereof. The certi-
16 ficate of such oath need not state the place where same
17 is taken and shall require no seal to be affixed thereto.
18 The officer taking and certifying such oath must state
19 his rank, branch of military service, and identification
20 number; and such certificate may be in form and effect as
21 follows:

22 IN THE MILITARY SERVICE OF THE UNITED
23 STATES:

24 I, _____, being duly sworn on oath
25 (affirmation) do swear (affirm) that the statements
26 herein contained are, to the best of my knowledge and
27 belief, true, and that I am legally qualified to vote.

28 _____
29 Signature of Applicant.

30 Subscribed and sworn to before me this the _____
31 day of _____, 19____.

32 _____
33 Signature of Officer, Rank and
34 Identification Number.

2 Sec. 26. *Registration Procedure in Office of the Clerk*
3 *of the County Court.*—The clerk of the county court may
4 register any qualified person by filling in the prescribed
5 registration form or forms, as the case may be, and having
6 them signed by the applicant under oath or affirmation,
7 except as is otherwise provided in this article. Upon
8 proper proof, the registration record of any voter may be
9 altered, amended, corrected, or cancelled by the clerk of
10 the county court.

11 The aforesaid registration or alteration, correction, or
12 cancellation of registration records shall be carried on
13 throughout the year, except during the thirty days pre-
14 ceding any election. For the initial registration the county
15 court may, at its discretion, order the clerk of the county
court to maintain additional office hours in the evening.

2 Sec. 29. *Disability Suffered Since Registration.*—Any
voter who has since the time of registration suffered a

3 physical disability which renders him unable to sign his
4 name, may at any time, except the thirty days immediately
5 preceding any election, personally make application under
6 oath to the clerk of the county court to have such fact
7 entered on his registration record, together with a state-
8 ment of the exact nature of his physical disability, and
9 such entry shall be made accordingly. If such applicant
10 is physically unable to appear before the clerk of the
11 county court to cause such change to be made on the
12 registration record, he may request the clerk of the county
13 court to mail him the necessary forms, and the clerk of
14 the county court upon receipt of such forms properly
15 filled, together with a physician's certificate affirming
16 such disability, shall alter the registration record of the
17 voter accordingly: *Provided*, That when the clerk of the
18 county court shall ascertain that any voter who has de-
19 clared himself physically disabled or illiterate, no longer
20 suffers from such physical disability or illiteracy, he shall
21 forthwith cancel on the registration record the entry
22 relating to physical disability or illiteracy, and shall no-
23 tify such elector by mail of his action.

Sec. 32. *Challenge of Right to Register.*—Any person
2 claiming the right to register may be challenged by the
3 clerk of the county court or by any registrar, or, pro-
4 vided they appear in person at the office of the clerk of
5 the county court, by the chairman of a political party or
6 any other qualified voter. Such challenge shall be en-
7 tered upon a form prescribed by the secretary of state
8 and shall be filed as a matter of record in the office of
9 the clerk of the county court. Upon receipt of such form
10 the clerk of the county court shall mail to the person
11 challenged a notice, the form of which shall be prescribed
12 by the secretary of state. Any person so challenged may
13 appear at the office of the clerk of the county court at
14 any time, except during the thirty days immediately
15 preceding any election, to show cause why the challenge
16 should be removed. Failure to appear shall automatically
17 constitute a cancellation of such person's registration
18 record: *Provided*, That in no case shall such registration
19 record be cancelled unless such person receives notice of

20 such challenge by registered mail with return receipt re-
21 quested at least five weeks preceding any election.

Sec. 34. *Time of Transfer.*—Transfers of the registra-
2 tion record may be made throughout the year except
3 during the thirty days immediately preceding any elec-
4 tion, and if any voter shall move from one place to an-
5 other within the county within the thirty-day period, he
6 shall, for that election only, vote in the precinct from
7 which he moved.

Sec. 35. *Change of Name.*—Whenever an elector, pre-
2 viously registered, shall change his name, such person
3 shall be required to register again. For this purpose such
4 person may register by mail in the same manner as an
5 absentee registrant, according to the procedure of sec-
6 tion twenty-four of this article. Upon such registration
7 the clerk of the county court shall cancel the registra-
8 tion record bearing the voter's former name. When such
9 a change of name is made during the thirty days im-
10 mediately preceding any election, such elector, if duly
11 registered, may vote at the election under his former
12 name.

Sec. 38. *Time of Hearings Before County Court.*—The
2 county court shall hold such hearings as shall be neces-
3 sary for the purpose of reviewing any case pertaining to
4 registration: *Provided*, That no such hearings shall be
5 held within the thirty days immediately preceding the
6 election in which the person whose registration is affec-
7 ted seeks to vote.

Article 4. Nomination of Candidates.

Section

18. Ascertainment of result of primary; certificates.

Section 18. *Ascertainment of Result of Primary; Certifi-*
2 *cates.*—When the polls are closed, the commissioners of
3 election and the poll clerks shall proceed to ascertain
4 the result of the election as follows:

5 (a) The commissioners shall ascertain the number of
6 ballots destroyed during the election and the number
7 of ballots remaining not voted;

8 (b) The commissioners and clerks shall also ascer-
9 tain from the poll books, and set down therein the
10 total number of ballots of each party cast. The
11 commissioners shall report, over their signatures, to
12 the clerk of the county court, the number of votes
13 of each party cast, the number of ballots destroyed
14 during the election, and the number of ballots not
15 voted. All unused ballots shall at the same time
16 be returned to the clerk of the county court,
17 who shall immediately destroy them by fire or other-
18 wise.

19 Each commissioner who is a member of an election
20 board which fails to account for every ballot delivered
21 to it shall be guilty of a misdemeanor, and upon con-
22 viction thereof shall be fined not more than one thou-
23 sand dollars or confined in the county jail for not more
24 than one year, or both;

25 (c) The ballot box shall be opened and one of the
26 commissioners shall take therefrom one ballot at a
27 time, in the presence of all the other officers, and shall
28 announce what political party's ballot it is, and shall
29 read therefrom the result of the vote on such ballot for
30 each office, and hand the ballot to another of the com-
31 missioners differing in politics from himself, who, if
32 satisfied that it is correctly read, shall string the same on
33 thread. The ballots of each party shall be strung on
34 separate threads. Each poll clerk shall keep an ac-
35 curate tally of the contents of each ballot of each party
36 on tally paper, which shall be provided for the pur-
37 pose, so as to show the number of votes received by
38 every person for any office. The ballots shall be
39 counted as they are strung upon the thread, and, when-
40 ever the number counted for any party shall equal the
41 number of votes entered upon the poll book of that
42 party, any other ballot of such party found in the bal-
43 lot box shall be immediately destroyed by fire or other-
44 wise, without unfolding the same, or allowing anyone
45 to examine or know the contents thereof;

46 (d) As soon as the results at the precinct are ascer-
47 tained, the commissioners and clerks shall make out
48 and sign four certificates, for each party represented,

49 of the vote for all candidates of such party, in the fol-
50 lowing form:

51 Certificate of result for.....party
52 candidates.

53 We, the undersigned commissioners and poll clerks of
54 the primary election held at precinct No.....
55 of.....district of.....county, W.
56 Va., on the.....day of....., 19....., do hereby
57 certify that, having been first duly sworn, we have care-
58 fully and impartially ascertained the result of said elec-
59 tion at said precinct for the candidates on the official
60 ballot of the.....party, and the same is as fol-
61 lows:

62 For the office of governor, A. B. received.....votes.

63 For the office of governor, E. F. received.....votes.

64 For the office of governor, G. H. received.....votes.

65 (And so on as to each office for which any candidate
66 was voted for, stating in words and figures the number
67 of votes cast for each candidate.)

68 Given under our hands this.....day of.....,
69 19.....

70
71 Three of such certificates of result of election, for each
72 party, shall then be sealed in separately addressed en-
73 velopes, furnished for the purpose, and shall be dis-
74 posed of by the precinct commissioners as follows: One
75 certificate for each party shall be returned, under seal,
76 to the clerk of the county court, with the election re-
77 turns; one for each party shall be delivered by the com-
78 missioners to the clerk of the circuit court of the county;
79 and one for each party shall be sent by registered mail
80 to the secretary of state: *Provided, however,* That it shall
81 not be necessary for the precinct commissioners and
82 clerks to include, in the certificates to the secretary of
83 state, the votes cast for any candidates for county and
84 district offices, other than for members of the Legisla-
85 ture. The one not sealed up shall be posted on the out-
86 side of the front door of the polling place in said pre-
87 cinct.

88 All ballots voted for candidates of each party shall
89 be sealed up in separate envelopes and the commission-

90 ers and clerks shall each sign his name across the
91 seal.

92 In all precincts in which a receiving board and a count-
93 ing board of election officers are appointed, the work
94 of counting the votes and of ascertaining and certifying
95 the result shall be divided between the two boards, and
96 be performed by them, respectively, in the same manner
97 provided in article five of this chapter for counting the
98 votes and ascertaining and certifying the result of a
99 general election.

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

29. Counting of ballots not voted; recordation of number of voters; return to county clerk.

Section 29. *Counting of Ballots Not Voted; Recordation of Number of Voters; Return to County Clerk.*—Immediately on closing the polls, the commissioners of election shall ascertain the number of ballots destroyed during the election and the number of ballots remaining not voted. The commissioners of election shall also ascertain from the poll books the number of persons who voted and shall report, over their signatures, to the clerk of the county court, the number of votes cast, the number of ballots destroyed during the election, and the number of ballots not voted. All unused ballots shall at the same time be returned to the clerk of the county court, who shall immediately destroy them by fire or otherwise.

Each commissioner who is a member of an election board which fails to account for every ballot delivered to it shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both.

Article 6. Voting by Absentees.

Section

3. Blanks furnished by clerks; oath.

7. Affidavit of absent voter; marking and return of ballot.

Section 3. *Blanks Furnished by Clerks; Oath.*—Application for an absent voter's ballot shall be made in person or by mail, on a blank to be furnished by the clerk of the circuit court of the county in which the applicant is a qualified elector. Such blank shall, upon request, be sent to the applicant by mail by such clerk, or delivered to such applicant in person upon his appearance at the office of such clerk. Application for an absent voter's ballot shall be substantially in the following form, and shall be signed and sworn to by the applicant, as hereinafter provided, before some officer authorized by law to administer oaths, and having an official seal. If the applicant appears in person at the office of the clerk of the circuit court, such clerk shall administer the necessary oath.

VERIFIED APPLICATION FOR ABSENT VOTER'S
BALLOT

State of _____,

County of _____, to-wit:

I, _____, solemnly swear (or affirm) that I am now, or will have been, a resident of the state of West Virginia for twelve months, and of the county of _____ for sixty days, next preceding the date of the ensuing election; that I am now a resident of election precinct No. _____, in the magisterial district of _____, in said county; that I am a duly qualified elector entitled to vote in such election; that I am registered in the precinct of my residence as provided by law; that I am _____ (stating business), and because of the nature of my business or employment, or for the following reasons _____ (relating unavoidable cause of absence), I expect to be absent from the state of my residence on the date of such election, and I hereby make application for an official ballot (or ballots, if more than one is to be used) to be voted by me at such election; and that I will return such ballot (or ballots) to the officer issuing them not later than four days prior to the day of such election.

(If application is made for a primary ballot, the ap-

40 plicant shall also designate the party whose candidates he
41 expects to vote for.)

42 Signed.....

43 Home address of applicant.....

44 P. O. address to which ballot is to be sent.....

45 Subscribed and sworn to before me, as witness my hand
46 and seal this day of, 19....

47

48 (Official Title)

49 My commission expires.....

50 *Provided, however,* That when such absent voter is a
51 person serving in any branch of the armed forces of the
52 United States he may take and subscribe the oath to the
53 above application before any commissioned officer of any
54 branch of the armed services of the United States, under
55 the same provisions and in the same form as required
56 in section twenty-four, article two of this act.

Sec. 7. *Affidavit of Absent Voter; Marking and Return*
2 *of Ballot.*—Such absent voter shall make and subscribe
3 to the affidavit provided for in section six of this article
4 before any officer authorized by law to administer oaths
5 and having an official seal, and such voter shall there-
6 upon, in the presence of such officer, and of no other
7 person, mark such ballot or ballots, but in such manner
8 that such officer cannot know how such ballot or ballots
9 are marked, and such ballot or ballots shall then, in the
10 presence of such officer, be folded by such voter so that
11 each ballot will be separate and so as to conceal the mark-
12 ing, and shall, in the presence of such officer, be inclosed
13 in such envelope, together with any unused ballot, and
14 the envelope shall be securely sealed. The envelope shall
15 then be mailed by such voter by registered mail, postage
16 prepaid, to the officer issuing the ballot, or, if more con-
17 venient, it may be delivered in person. Any such ballot
18 to be valid shall be received by the clerk of the circuit
19 court of the county in time for him to deliver the same
20 to the election commissioners before the closing of the
21 polls: *Provided, however,* That when such absent voter
22 is a person serving in any branch of the armed forces of
23 the United States he may take and subscribe the oath

24 to the above application before any commissioned of-
25 ficer of any branch of the armed services of the United
26 States, under the same provisions and in the same form
27 as required in section twenty-four, article two of this act.

CHAPTER 51

(House Bill No. 39—By Mr. Taylor, of Mingo)

AN ACT to amend and reenact section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the conduct of primary and other elections, and voting therein.

[Passed March 1, 1943; in effect from passage. Approved by the Governor.]

Article

4. Nomination of Candidates.

5. Conducting Election; Ascertaining and Certifying the Result.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Article 4. Nomination of Candidates.

Section

17. Conducting primary; voting.

Section 17. *Conducting Primary; Voting.*—Any person
2 offering to vote in a primary election shall be required to
3 sign his name in the space marked "signature of voter"
4 on the poll book prescribed in section thirteen of this ar-
5 ticle, and until such person shall so sign the poll book no
6 ballot shall be given to him. After having signed the poll
7 book, as aforesaid, a ballot shall be given to the voter by

8 the poll clerks. If such person is physically or otherwise
9 unable to sign his name, his mark shall be affixed by one
10 of the poll clerks in the presence of the other. The name of
11 the poll clerk affixing the mark of such person shall be
12 indicated beneath such affixation.

13 The clerks shall write their names at the place designated
14 on the back of the official ballot called for and deliver it to
15 the voter, who shall have but one ballot unless he shall re-
16 turn the same spoiled; if he shall return the same spoiled,
17 the clerks shall immediately destroy the ballot so spoiled,
18 and deliver to him another ballot in the same manner as
19 they delivered the first one. The voter shall then forthwith,
20 and without leaving the room, return alone to the booth or
21 compartment prepared for the purpose, and there prepare
22 his ballot. Any voter, because of illiteracy or disability, as
23 shown by the registration record, may receive the as-
24 sistance as provided for in section twenty-one, article five,
25 chapter three of the code of West Virginia.

26 After preparing the ballot, the voter shall fold the
27 same so that the face shall not be exposed, but so as to
28 show plainly the name of the political party and the
29 names of the poll clerks signed thereon. The voter shall
30 then announce his name and present his ballot to the
31 commissioner of his party, if there be one, who shall hand
32 the same to another election official, who shall deposit it
33 in the ballot box, if such ballot is the official one and
34 properly signed. When the voter has voted, he shall retire
35 immediately from the election room, and beyond the
36 sixty-foot limit thereof, and shall not return, except by
37 permission of the commissioners.

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

19. Conducting elections other than primaries; voting.

Section 19. *Conducting Elections Other than Primaries;*
2 *Voting.*—Any person offering to vote in an election shall
3 sign his name in the space marked "signature of voter"
4 on the poll book prescribed in section twelve of this
5 article before being given a ballot, and after such person
6 shall have so signed the poll book a ballot shall be given

7 him by the poll clerks. If such person is physically or
8 otherwise unable to sign his name, his mark shall be
9 affixed by one of the poll clerks in the presence of
10 the other. The name of the poll clerk affixing the mark
11 of such person shall be indicated beneath such affixa-
12 tion.

13 The clerks shall write their names at the place desig-
14 nated on the back of the official ballot called for and de-
15 liver it to the voter, who shall have but one ballot un-
16 less he shall return the same spoiled; if he shall re-
17 turn the same spoiled, the clerks shall immediately
18 destroy the ballot so spoiled, and deliver to him another
19 ballot in the same manner as they delivered the first
20 one.

21 On receipt of the ballot the voter shall forthwith, and
22 without leaving the election room, retire alone to one
23 of the booths or compartments provided for the pur-
24 pose and shall prepare the ballot, using a black lead
25 pencil or other means for the purpose, and observing the
26 following rules:

27 (a) If the voter desires to vote a straight ticket, or, in
28 other words, for each and every candidate for one party
29 for whatever office nominated, he shall either:

30 (1) Make a cross mark in the circular space below
31 the device and above the name of the party at the
32 head of the ticket; or

33 (2) Make a cross mark on the left and opposite the
34 name of each and every candidate of such party in
35 the blank space provided therefor; or

36 (3) Mark out, by lines, all the tickets on the ballot,
37 other than the ticket he desires to vote.

38 (b) If the voter desires to vote a mixed ticket, or,
39 in other words, for candidates of different parties, he shall
40 either:

41 (1) Omit making a cross in the circular space above
42 the name of the party, and make a cross mark in the
43 blank space before the name of each candidate for
44 whom he desires to vote on whatever ticket the name may
45 be; or

46 (2) Make a cross mark in the circular space above
47 the name of the party for some of whose candidates he

48 desires to vote, and then make a cross mark before the
49 name of any candidate of any other party for whom
50 he may desire to vote; in which case the cross mark
51 in the circular space above the name of the party will
52 cast his vote for every candidate on the ticket of such
53 party except for offices for which candidates are marked
54 on other party tickets, and the cross marks before the
55 name of such candidates will cast his vote for them;
56 or

57 (3) Write with black lead pencil or other means the
58 name of any person for whom he desires to vote in
59 the space immediately below the name of the oppos-
60 ing candidate for the same office, on the ticket voted
61 by him, and the name so written shall be counted.

62 If, in marking either a straight or mixed ticket as
63 above defined, a cross mark is made in the circular space
64 above the name of a party at the head of the ticket,
65 and also one or more cross marks made before the name
66 or names of candidates on the same ticket for offices
67 for which candidates on other party tickets are not
68 individually marked, such marks before the name of
69 candidates on the ticket so marked shall be treated as
70 surplusage and ignored.

71 If the voter desires to vote for any person whose name
72 does not appear on the ticket, he may substitute the
73 name by writing it with black pencil or other means in
74 the proper place, and making a cross mark in the blank
75 space at the left of the name so written.

76 If the voter marks more names than there are persons
77 to be elected to an office, or if, for any reason, it is
78 impossible to determine the voter's choice, for an office
79 to be filled, the ballot shall not be counted for such of-
80 fice.

81 No ballot shall be rejected for any technical error
82 which does not make it impossible to determine the voter's
83 choice.

84 After preparing the ballot the voter shall fold the
85 same so that the face shall not be exposed and so that
86 the names of the poll clerks thereon shall be seen. The
87 voter shall then announce his name and present his
88 ballot to one of the commissioners, who shall hand the

89 same to another commissioner of a different political
90 party, who shall deposit it in the ballot box, if such
91 ballot is the official one and properly signed. The com-
92 missioners of election may inspect every ballot before
93 it is deposited in the ballot box, to ascertain whether
94 it is single, but without unfolding or unrolling it, so
95 as to disclose its content. When the voter has voted,
96 he shall retire immediately from the election room, and
97 beyond the sixty-foot limit thereof, and shall not return,
98 except by permission of the commissioners.

CHAPTER 52

(Com. Sub. for Senate Bill No. 22—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section eleven, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to vacancies in office to be filled by the governor by and with the advice and consent of the senate.

[Passed February 16, 1943; in effect from passage. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Article 10. Filling Vacancies.

Section

11. Vacancy in appointive office; recess appointment.

Be it enacted by the Legislature of West Virginia:

That section eleven, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 11. *Vacancy in Appointive Office; Recess Appointment.*—In case of a vacancy, during the recess of the senate, in any office, which vacancy the governor is authorized to fill by and with the advice and consent of the senate, the governor shall, by appointment, fill such vacancy until the next meeting of the senate, when the governor shall submit to the senate a nomination to fill

8 such vacancy and upon confirmation of such nomination
9 by the senate, by a vote of a majority of all the members
10 elected to the senate, taken by yeas and nays, the person
11 so nominated and confirmed shall hold said office during
12 the remainder of the term for which his predecessor in of-
13 fice was appointed, and until his successor shall be ap-
14 pointed and qualified. No person whose nomination for
15 office has been rejected by the senate shall be again nomi-
16 nated for the same office during the session in which his
17 nomination was so rejected, unless at the request of the
18 senate, nor shall he be appointed to the same office dur-
19 ing the recess of the senate, nor shall he be appointed,
20 during the recess of the senate in which his nomination
21 was rejected, to any other office the nomination for which
22 must be submitted to the senate for confirmation. No
23 appointee who resigns from any such office prior to con-
24 firmation, or whose name has not been submitted for
25 confirmation while the senate is in session, shall be eligi-
26 ble, during the recess of the senate, to hold any office the
27 nomination for which must be confirmed by the senate.
28 The bond, if any, required by law to be given by any
29 officer so temporarily appointed by the governor, shall be
30 in such penalty as is required by law of the incumbent
31 of such office.

32 Any vacancy in any other office filled by appointment,
33 or in any office hereafter created to be filled by appoint-
34 ment, shall be filled by the same person, court or body
35 authorized to make appointment to such office for the full
36 term thereof.

CHAPTER 53

(Senate Bill No. 141—By Mr. Hardesty)

AN ACT to amend and reenact section ten, article eleven, chap-
ter thirty-three of the code of West Virginia, one thousand
nine hundred thirty-one, as amended; to repeal section
twenty of said article; to add three new sections to said

article to be known as sections twenty, twenty-one, and twenty-two, relating to policies of accident and health insurance.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 11. Accident and Health Insurance.

Section

10. What policy to state; size of type.
20. Family expense accident and health insurance.
21. Hospitalization and medical expense policies; required and prohibited provisions.
22. Application of article.

Be it enacted by the Legislature of West Virginia:

That section twenty, article eleven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be repealed; that section ten, article eleven, chapter thirty-three of the code, as amended as aforesaid, be amended and reenacted; that three new sections to be known as sections twenty, twenty-one and twenty-two be added to article eleven, chapter thirty-three of the code, as amended as aforesaid, to read as follows:

- Section 10. *What Policy to State; Size of Type.*—No such
- 2 policy shall be issued or delivered, except subject to the
 - 3 following conditions: (a) Unless the entire money and
 - 4 other consideration therefor be expressed in the policy;
 - 5 nor (b) unless the time at which the insurance there-
 - 6 under takes effect and terminates be stated in a portion
 - 7 of the policy preceding its execution by the insurer; nor
 - 8 (c) if the policy purports to insure more than one person,
 - 9 except as provided in section twenty of this article; nor
 - 10 (d) unless every printed portion thereof and of any en-
 - 11 dorsements or attached papers shall be plainly printed
 - 12 in type of which the face shall be not smaller than ten
 - 13 point; nor (e) unless a brief description thereof be printed
 - 14 on its first page and on its filing back in type of which
 - 15 the face shall be not smaller than fourteen point; nor
 - 16 (f) unless the exceptions of the policy be printed with

17 the same prominence as the benefits to which they apply;
18 nor (g) unless any portion of such policy which pur-
19 ports, by reason of the circumstances under which a loss
20 is incurred, to reduce any indemnity promised therein to
21 an amount less than that provided for the same loss
22 occurring under ordinary circumstances shall be printed
23 in bold face type and with greater prominence than any
24 other portion of the text of the policy.

Sec. 20. *Family Expense Accident and Health Insurance.*—Any policy of accident or health insurance or of
2 accident and health insurance issued to the head of a
3 family (in this section called the policyholder) may pro-
4 vide, in addition to such other indemnities, if any, as are
5 provided in the policy on account of sickness or bodily in-
6 jury or death of the policyholder by accident, for the pay-
7 ment of benefits or reimbursement for expenses with re-
8 spect to any one or more of the following contingencies:
9 Hospitalization, nursing care, medical or surgical examin-
10 ation or treatment, or ambulance transportation of the
11 policyholder or of the spouse of the policyholder or of a
12 child or children of the policyholder or of dependents
13 living with the policyholder.

Sec. 21. *Hospitalization and Medical Expense Policies; Required and Prohibited Provisions.*—(a) Every policy
2 hereafter issued for delivery in this state providing
3 benefits as authorized by section twenty of this article,
4 and every policy of accident insurance or health insur-
5 ance or of accident and health insurance hereafter issued
6 for delivery in this state and insuring only one person,
7 under which the only payments provided are the pay-
8 ment of benefits or reimbursement for expenses with
9 respect to hospitalization, nursing care, medical or surgi-
10 cal examination or treatment, or ambulance transporta-
11 tion, shall contain the standard provisions required by
12 subsections (a), (b), (c), (e), (f), (l) and (n) of section
13 eleven of this article. Every such policy shall contain
14 Form (A) of the standard provision required by sub-
15 section (g) of said section, and Form (A) of the stand-
16 ard provision required by subsection (i) of said section,

18 and Form (B) of the standard provision required by
19 subsection (k) of said section.

20 (b) Every such policy shall also contain in substance
21 the following additional provisions, or a provision which
22 in the opinion of the commissioner is more favorable to
23 policyholders:

24 A provision that written notice of claim for benefits
25 under the policy must be given the insurer within sixty
26 days after the date of the loss for which claim is made.

27 (c) Every such policy under which the premiums are
28 paid monthly shall also contain in substance the following
29 additional provision or a provision which in the opinion
30 of the commissioner is more favorable to policyholders:

31 A provision that the insured is entitled to a grace period
32 of ten days within which the payment of any premium
33 after the first may be made, during which period of grace
34 the policy shall continue in full force.

35 (d) The standard provision required by subsection (d)
36 of said section eleven shall be omitted from any such
37 policy, and those required by subsections (h), (j), (m)
38 and (o) of said section eleven may be omitted from any
39 such policy.

40 (e) Every policy hereafter issued for delivery in this
41 state providing benefits as authorized by section twenty
42 of this article and every policy of accident insurance or
43 health insurance or of accident and health insurance here-
44 after issued for delivery in this state and insuring only one
45 person, which provides other benefits as well as benefits
46 or reimbursement for expenses with respect to hospital-
47 ization, nursing care, medical or surgical examination or
48 treatment, or ambulance transportation, shall contain the
49 standard provisions of section eleven of this article. All
50 such policies under which the premiums are paid monthly
51 shall also contain, in substance, the additional provision
52 set forth in subsection (c) of this section. If, in the
53 opinion of the insurance commissioner, the principal
54 benefits of such policy are the payment of benefits or
55 reimbursement for expenses with respect to hospitaliza-
56 tion, nursing care, medical or surgical examination or
57 treatment, or ambulance transportation, they shall con-
58 tain, at least with respect to such benefits or reimburse-

59 ment, the additional provision set forth in subsection (b)
60 of this section, in lieu of the standard provision required
61 by subsection (d) of said section eleven. If such addi-
62 tional provision is contained in a rider or endorsement
63 on the policy, reference thereto shall be stamped or
64 printed over, or in the margin beside the standard pro-
65 vision required by said subsection (d) of said section
66 eleven.

67 (f) No policy hereafter issued for delivery in this state
68 which provides, with or without other benefits, for the
69 payment of benefits or reimbursement for expenses with
70 respect to hospitalization, nursing care, medical or surgi-
71 cal examination or treatment, or ambulance transporta-
72 tion, shall contain any provision for a reduction of such
73 benefit or reimbursement, or any provision for avoidance
74 of the policy, on account of other insurance of such nature
75 carried by the same insured with the same or another
76 insurer. The insurance commissioner may disapprove any
77 such policy if it contains any provision which, in his
78 opinion, is less favorable to the policyholder than any
79 provision required by this article relating to the same
80 subject.

Sec. 22. *Application of Article.*—(a) Nothing in this
2 article, however, shall apply to or affect any policy of
3 liability or workmen's compensation insurance or any
4 policy of insurance on which the premiums are payable
5 weekly.

6 (b) Nothing in this article shall apply to or affect any
7 policy of insurer issued in accordance with article thirteen
8 of this chapter, except as provided in said article thirteen.

9 (c) Nothing in this article shall apply to nor in any
10 way affect life insurance, endowment or annuity contracts
11 or contracts supplemental thereto which contain no pro-
12 visions relating to accident or health insurance except
13 (i) such as provide additional benefits in case of death
14 by accidental means, and except (ii) such as operate to
15 safeguard such contracts against lapse, or to give a special
16 surrender value, or special benefit, or an annuity, in the
17 event that the insured or annuitant shall become totally

18 and permanently disabled as defined by the contract or
19 supplemental contract.

20 (d) Nothing in this article shall apply to or in any
21 way affect fraternal benefit societies.

22 (e) The provisions of this article contained in clause (e)
23 of section ten and in clauses (b), (c), (h) and (i) of sec-
24 tion eleven may be omitted from transportation ticket
25 policies.

26 Notwithstanding anything in this act to the contrary, all
27 policy forms, riders or endorsements, providing for acci-
28 dent insurance, health insurance or accident and health
29 insurance heretofore approved by the insurance commis-
30 sioner may continue to be issued for delivery in this state
31 until October first, one thousand nine hundred forty-
32 three, but no such policy form, rider, or endorsement may
33 thereafter be issued for delivery in this state unless, sub-
34 sequent to the effective date of this act, it has been filed
35 with the insurance commissioner in accordance with
36 section nine, article eleven, or section two, article thirteen,
37 as amended, whichever is applicable.

CHAPTER 54

(Senate Bill No. 142—By Mr. Hardesty)

AN ACT to amend and reenact article thirteen, chapter thirty-
three of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended by chapter seventy, acts of
the Legislature, regular session, one thousand nine hun-
dred thirty-nine, defining and regulating policies of group
accident and health insurance.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the
Governor.]

Article 13. Group Accident and Health Insurance.

Section

1. Companies which may write group accident and health insurance;
policy classifications; definitions.
2. Policy forms to be approved by insurance commissioner.
3. Required policy provisions.

4. Policy provision as to proof of loss and time for suit prescribed; size of type prescribed.
5. Policies to provide expense reimbursement permitted; provision as to proof of loss and time for suit prescribed.
6. Riders transforming individual into group policy forbidden; unauthorized insurance forbidden.
7. Scope of article defined.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

- Section 1. *Companies Which May Write Group Accident and Health Insurance; Policy Classifications; Definitions.*—Any insurer authorized to do the business of accident and health insurance in this state may issue group policies insuring against bodily injury or death caused by accident or accidental means, or against sickness, or both, coming within any of the following classifications:
- (a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least twenty-five employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:
 - (i) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment, or
 - (ii) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy-five per cent of all employees of the employer or not less than seventy-five per cent of all employees of any class or classes thereof determined by conditions pertaining to the employment;
 - (b) A policy issued to an association which has a constitution and by-laws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five members of the association for the benefit of persons other than the association or its officers or trustees, as such;
 - (c) A policy issued to a college, school or other in-

stitution of learning or to the head or principal thereof, insuring students, or students and employees, of such institution;

(d) A policy issued to or in the name of any volunteer fire department, insuring all of the members of such department or all of any class or classes thereof against any one or more of the hazards to which they are exposed by reason of such membership.

The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer" as used herein may be deemed to include any municipal or governmental corporation, unit, agency or department thereof and the proper officers, as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships and corporations.

Sec. 2. Policy Forms to Be Approved by Insurance Commissioner.—No such policy shall hereafter be issued for delivery in this state until a copy of the form thereof shall have been filed with the insurance commissioner; nor shall it be so issued for delivery until the expiration of thirty days after it has been so filed unless the commissioner shall sooner give his written approval thereof. If the commissioner shall notify in writing the insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy for delivery in this state in such form. The action of the commissioner in this regard shall be subject to review by any court of competent jurisdiction.

Sec. 3. Required Policy Provisions.—Each such policy hereafter issued for delivery in this state shall contain in substance the following provisions:

(a) A provision that the policy, the application of the

5 policyholder, a copy of which shall be attached to such
6 policy, and the individual applications, if any, submitted
7 in connection with such policy by the employees or mem-
8 bers, shall constitute the entire contract between the
9 parties, and that all statements made by any applicant or
10 applicants shall be deemed representations and not war-
11 ranties, and that no such statement shall void the in-
12 surance or reduce benefits thereunder unless contained in
13 a written application.

14 (b) In the case of a policy coming within the classi-
15 fication of subsection (a) or (b) of section one of this
16 article, a provision that the insurer will furnish to the
17 policyholder, for delivery to each employee or member
18 of the insured group, an individual certificate setting
19 forth in substance the essential features of the insurance
20 coverage of such employee or member and to whom bene-
21 fits thereunder are payable. If dependents are included
22 in the coverage, only one certificate need be issued for
23 each family unit.

24 (c) A provision that all new employees or members,
25 as the case may be, in the groups or classes eligible for in-
26 surance, shall from time to time be added to such groups
27 or classes eligible to obtain such insurance in accordance
28 with the terms of the policy.

Sec. 4. *Policy Provision as to Proof of Loss and Time
2 for Suit Prescribed; Size of Type Prescribed.*—No such
3 policy hereafter issued for delivery in this state shall con-
4 tain any provision relative to notice or proof of loss or the
5 time for paying benefits or the time within which suit may
6 be brought upon the policy which is less favorable to the
7 insured than would be permitted by the provisions set
8 forth in article eleven of this chapter. Every printed
9 portion of every such policy shall be plainly printed in
10 type of which the face shall be not smaller than ten point,
11 and the exceptions in any such policy shall be printed
12 with the same prominence as the benefits to which they
13 apply.

Sec. 5. *Policies to Provide Expense Reimbursement
2 Permitted; Provision as to Proof of Loss and Time for
3 Suit Prescribed.*—Any policy coming within the classifica-

tion of subsection (a) or (b) of section one of this article may provide, in addition to such other indemnities, if any, as are provided in the policy on account of sickness or bodily injury or death of insured employees or members by accident, for the payment of benefits or reimbursement for expenses with respect to any one or more of the following contingencies: Hospitalization, nursing care, medical or surgical examination or treatment, or ambulance transportation of insured employees or members, or of their spouses or children, or of dependents living with them: *Provided*, That no such policy hereafter issued for delivery in this state shall contain any provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy which is less favorable to the insured than would be permitted by the provisions of section twenty-one of article eleven.

Sec. 6. *Riders Transforming Individual into Group Policy Forbidden; Unauthorized Insurance Forbidden.*—No endorsement or rider shall hereafter be used in this state to transform an individual policy issued under authority of article eleven of this chapter into a group policy. Except as provided in this article, no policy of accident or health insurance or of accident and health insurance insuring a group of persons shall be issued for delivery in this state.

Sec. 7. *Scope of Article Defined.*—(a) Nothing in this article shall apply to or affect any policy of liability or workmen's compensation insurance, or any policy of insurance issued in accordance with article eleven of this chapter, or any policy issued by a fraternal benefit society.

(b) Nothing in this article shall apply to or in any way affect life insurance, endowment or annuity contracts or contracts supplemental thereto which contain no provisions relating to accident or health insurance, except (a) such as provide additional benefits in case of death by accidental means and, except (b) such as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the

15 event that the insured or annuitant shall become totally
16 and permanently disabled as defined by the contract or
17 supplemental contract.

18 Notwithstanding anything in this act to the contrary, all
19 policy forms, riders or endorsements providing for acci-
20 dent insurance, health insurance or accident and health
21 insurance heretofore approved by the insurance commis-
22 sioner may continue to be issued for delivery in this
23 state until October first, one thousand nine hundred forty-
24 three, but no such policy form, rider or endorsement may
25 thereafter be issued for delivery in this state unless,
26 subsequent to the effective date of this act, it has been
27 filed with the insurance commissioner in accordance with
28 section nine, article eleven, or section two, article
29 thirteen, as amended, whichever is applicable.

CHAPTER 55

(House Bill No. 332—By Mr. Ballard)

AN ACT to amend and reenact section twenty-two, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to property loans.

[Passed March 11, 1943. in effect from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section

22. Security for loans.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 22. *Security for Loans.*—No loan shall be made
2 of the capital assets, or income, or any portion thereof, of
3 any life insurance company incorporated by or organized
4 under the laws of this state, unless such loan shall be

5 secured by mortgage on unencumbered real estate worth
6 at least double the amount loaned thereon; or by mort-
7 gage or deed of trust on real or personal property, tan-
8 gible or intangible, of any public utility, having an equity
9 equal to one and one-half times the amount loaned there-
10 on; or by pledge of bonds or stocks as collateral having
11 a market value at least ten per cent in excess of the
12 amount loaned thereon, or by pledge of United States
13 government bonds, the market value of which shall be
14 equal to the loan. Any such company may make loans
15 on pledge of policies issued by it to an amount not ex-
16 ceeding the net reserve which it maintains upon the
17 policy or policies pledged to secure each such loan.

CHAPTER 56

(House Bill No. 48—By Mr. Ward)

AN ACT to amend and reenact section thirteen, article two, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the compensation of grand jurors.

[Passed March 1, 1943; in effect July 1, 1943. Approved by the Governor.]

Article 2. Grand Juries.

Section

13. Compensation and mileage of grand jurors.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article two, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 13. *Compensation and Mileage of Grand Jurors.*—Every person who shall serve upon a grand jury shall be entitled to receive for such services not less than two dollars nor more than five dollars, to be fixed by the court, for each day he may so serve, and in addition thereto the same mileage as allowed to witnesses, to be paid out of

7 the county treasury. But he shall not be paid for more
8 than four days' services at any one term of the court, ex-
9 cept in the counties of Harrison, Kanawha, McDowell,
10 Fayette, Cabell, Marshall, Marion, Mercer, Wood, Ohio,
11 Mingo, Monongalia, Preston and Summers, where such
12 grand jurors shall not be paid for more than ten days'
13 services for any one term of court. The judge of the court
14 shall fix the compensation for grand jurors, as provided
15 above, by an order entered of record in such court. The
16 provisions of sections twenty-three and twenty-four of
17 article one of this chapter, relating to allowance and pay-
18 ment of compensation and mileage to petit jurors where
19 applicable, shall apply in like respect to grand jurors.

CHAPTER 57

(House Bill No. 49—By Mr. Ward)

AN ACT to amend and reenact section twenty-one, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-six, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to compensation of petit jurors.

[Passed March 1, 1943; in effect July 1, 1943. Approved by the Governor.]

Article 1. Petit Juries.

Section

21. Compensation of jurors; taxation of jury fees as costs; disposition thereof.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-six, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 21. *Compensation of Jurors; Taxation of Jury Fees as Costs; Disposition Thereof.*—Any person summoned as aforesaid, by virtue of a venire facias or otherwise, to serve as a petit juror, and actually attending upon the court, or attending at the courthouse, at the time summoned, whether he be called to serve on a jury or not, shall, for each day he so attends, be entitled to receive the sum of not less than two and not more than five dollars to be fixed by order entered of record, and the same mileage allowed to witnesses, to be paid out of the county treasury: *Provided*, That the per diem aforesaid shall be paid out of the state treasury for the day or days any person serves as a juror on a felony case; that for each day he shall not actually attend at the courthouse he shall receive nothing, and that he shall be allowed mileage but once during the term: *Provided further*, That when a jury in a case of felony shall be placed in the custody of the sheriff, he shall provide for and furnish such jury with regular meals at a reasonable cost not to exceed two dollars a day, while they are in his custody, and such meals shall be paid for out of the state treasury, as provided for above, for jury service in felony cases. There shall be taxed in the costs against any person against whom a judgment on the verdict of a jury may be rendered in a case of misdemeanor, and against any person against whom judgment on the verdict of a jury may be rendered in a civil action, and against any person on whose motion the verdict of a jury is set aside and a new trial granted, eight dollars for jury costs, which, when collected from the party, shall be paid into the county treasury. All money so received by the clerk shall be forthwith paid by him to the sheriff, and the clerk and his surety shall be liable therefor on his official bond as for other money coming into his hands by virtue of his office.

The clerk of the circuit court of each county in this state shall annually certify to the county court a list of all money so paid to him, and by him paid to the sheriff, and, in addition thereto, a correct list of all the cases in which jury fees have been taxed, and are, at the time,

- 41 properly due and payable in the county treasury, and the
42 sheriff of the county shall be held to account in his annual
43 settlement for all such moneys collected by him.

CHAPTER 58

(House Bill No. 210—By Mr. Flaccus)

AN ACT to amend and reenact section two, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter seventy-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to employment of children under eighteen years of age in certain occupations, determination as to other occupations, and the right of appeal to the supreme court of appeals.

[Passed March 10, 1943; in effect from passage. Approved by the Governor.]

Article 6. Child Labor.

Section

2. Employment of children under eighteen in certain occupations; determination as to other occupations; appeal to supreme court.

Be it enacted by the Legislature of West Virginia:

That section two, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter seventy-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

- Section 2. *Employment of Children under Eighteen in Certain Occupations; Determination as to Other Occupations; Appeal to Supreme Court.*—No child under eighteen years of age shall be employed, permitted or suffered to work in any mine, quarry or tunnel; or in, about, or in connection with any of the following:
- (1) Stone cutting or polishing;

8 (2) The manufacture or transportation of explosives
9 or highly inflammable substances;

10 (3) Ore reduction works, smelters, hot rolling mills,
11 furnaces, foundries, forging shops, or in any other place
12 in which the heating, melting or heat treatment of metals
13 is carried on;

14 (4) Machinery used in the cold rolling of heavy metal
15 stock, metal plate bending machines, or power-driven
16 metal planing machines.

17 No child under eighteen years of age shall be employed
18 or permitted to work in a public pool room or billiard
19 room, or be permitted, employed or suffered to sell, dis-
20 pense or serve beer, in any place or establishment where
21 beer is served, sold or dispensed, if dancing is permitted
22 or allowed in the same room in which such beer is served,
23 sold or dispensed, or in any indecent, obscene or immoral
24 exhibition or practice; nor shall a child under eighteen
25 years of age be apprenticed, given away, let out or other-
26 wise disposed of to any person or company to engage in
27 the occupation or service of rope or wire walker, gymnast,
28 contortionist, circus rider, acrobat or clown; nor shall any
29 child under the age of eighteen years be permitted or suf-
30 fered to work in a bowling alley after twelve o'clock
31 midnight.

32 The state commissioner of labor, the state commissioner
33 of health, and the state superintendent of free schools
34 may, from time to time, after hearing duly had, determine
35 whether or not any particular trade, process of manufac-
36 turing, or occupation in which the employment of chil-
37 dren under eighteen years of age is not already forbid-
38 den by law, or any particular method of carrying on such
39 trade, process of manufacture, or occupation, is suffi-
40 ciently dangerous to the lives or limbs, or injurious to
41 the health or morals of children under eighteen years of
42 age to justify their exclusion therefrom. No child under
43 eighteen years of age shall be employed or permitted to
44 work in any occupation thus determined to be dangerous
45 or injurious to such children. There shall be a right of
46 appeal to the supreme court of appeals from any such
47 determination.

CHAPTER 59

(House Bill No. 244—By Mr. Davis, by request)

AN ACT to amend article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section four-a, providing for the acknowledgment of written instruments by persons in the military service of the United States of America.

[Passed March 8, 1943; in effect from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.

Section

4-a. Acknowledgment of persons in the military service of the United States of America; who may take same, and form thereof.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section four-a, to read as follows:

Section 4-a. *Acknowledgment of Persons in the Military Service of the United States of America; Who May Take Same, and Form Thereof.*—Upon the request of any person interested therein, the clerk of the county court of any county in which any deed, contract, power of attorney, or other writing is to be, or may be, recorded, shall admit the same to record as to any person whose name is signed thereto who is in the military service of the United States (including the Women's Army Auxiliary Corps, Women's Appointed Volunteers for Emergency Service, Army Nurse Corps, "Spars", Women's Reserve, or similar women's auxiliary unit officially connected with the military service of the United States), upon the certificate of his or her acknowledgment before any commissioned officer of any branch of the military service of the United States, or auxiliary unit officially connected with such military service. Such ac-

18 knowledge may be taken at any place either within
19 or outside of the United States of America, or any ter-
20 ritory, possession or dependency thereof. The certificate
21 of such acknowledgment need not state the place where
22 same is taken, and shall require no seal to be affixed
23 thereto. The officer certifying such acknowledgment must
24 state his rank, branch of military service, and identifica-
25 tion number; and such certificate of acknowledgment may
26 be in form and effect as follows:

27 IN THE MILITARY SERVICE OF THE UNITED
28 STATES:

29 I, _____, a commissioned
30 officer in the military service of the United States, do
31 certify that _____,
32 who is a member of the military service of the United
33 States(or of _____,
34 an auxiliary to the military forces of the United States),
35 whose name is signed to the foregoing writing bearing
36 date on the _____ day of _____,
37 19_____, has this day acknowledged the same before me;
38 and I further certify that I am a _____

39 _____ (state rank)
40 in the _____ of the United States
41 and my identification number is _____

42 Given under my hand this _____ day of _____
43 _____, 19_____.
44 _____

(Official Title)

3

CHAPTER 60

(Senate Bill No. 30—By Mr. Young)

AN ACT to amend article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section fourteen, authorizing state boards of examination or registration

to remit annual license or annual registration fees of those serving in the armed forces of the United States of America.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 1. General Provisions Applicable to All State Boards of Registration.

Section

14. Remission of license or registration fees of persons serving in armed forces.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be numbered section fourteen, to read as follows:

- Section 14. *Remission of License or Registration Fees of Persons Serving in Armed Forces.*—Every board of examination or registration referred to in this chapter is hereby authorized, under such rules and regulations as may be adopted by each board, to remit all annual license or annual registration fees required to be paid by any licensee or registrant under its supervision during such time as such licensee or registrant is serving with the armed forces of the United States of America, and to retain the name of such licensee or registrant in good standing on the roster of said board during said time.

CHAPTER 61

(House Bill No. 1—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section two, article eleven, chapter six of the code of West Virginia, as enacted by chapter sixty, acts of the Legislature, one thousand nine hundred forty-one, relating to persons holding public offices or positions in the state or in any county, municipality or other

unit of state or local government who may be in or who shall enter the military, naval, marine corps or coast guard service of the United States of America, and the re-assumption of such offices or positions by such persons, after the completion of such service.

[Passed January 14, 1943; in effect from passage. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Article 11. Leave of Absence for Public Officers Entering Military Service.

Section

2. Period of replacement appointment; "acting" executive officer.

Be it enacted by the Legislature of West Virginia:

That section two, article eleven, chapter six of the code of West Virginia, as enacted by chapter sixty, acts of the Legislature, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 2. *Period of Replacement Appointment; "Acting" Executive Officer.*—Whenever the holder of any such public office or position enters any of the services mentioned in section one hereof and another is named to perform the duties of said person's office or position, such other person shall not be named for a period longer than the period served by the holder of such office in the aforesaid armed services of the United States. The holder of any executive office other than governor mentioned in section one of article seven of the constitution of this state, shall have the right to name the person who shall perform the duties of his office, and the person so named by such executive officer shall take over and perform all the duties of the office and may exercise all the power and authority of such executive office, in any manner pertaining thereto, and shall receive the salary of such executive officer. Such person shall be known as an "acting" officer.

CHAPTER 62

(Senate Bill No. 77—By Mr. Pelter)

AN ACT to amend and reenact section twenty-two, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to use of multiple beam, road-light equipment.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 8. Traffic Regulations and Laws of the Road.

Section

22. Weight of commercial vehicles; brakes, horn and lights on motor vehicle; connection of trailer with towing vehicle; commissioner to furnish assessors with list of vehicles; invalidity of part of section not to affect remainder.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

- Section 22. *Weight of Commercial Vehicles; Brakes, Horn and Lights on Motor Vehicle; Connection of Trailer with Towing Vehicle; Commissioner to Furnish Assessors with List of Vehicles; Invalidity of Part of Section Not to Affect Remainder.*—All vehicles used for commercial purposes shall have plainly marked on the right side thereof in some conspicuous place the actual weight of the vehicle, with equipment, and the weight of the seating or loading capacity of such vehicle.
- Every motor vehicle shall be equipped with two sets of brakes operating independently, except tractors and traction engines, which shall be provided with suitable brakes.
- Every motor vehicle and tractor, when in use on the roads, shall be equipped with a suitable horn or signaling device for producing an abrupt sound as a signal or warning of danger. The commissioner shall have the

18 power to make and enforce suitable regulations govern-
19 ing the kind and use of such horns or signaling devices.

20 Every vehicle operated on any road in this state at
21 night shall be equipped with a lamp, or lamps, as here-
22 inafter provided, of sufficient power, and so adjusted
23 and operated as to enable the operator of such vehicle
24 to proceed with safety to himself and to other users of
25 the road under all ordinary conditions of road and
26 weather.

27 Every motor vehicle and tractor shall have mounted
28 on the right and left sides of the front thereof a lamp,
29 such lamps to be of approximately equal candle power,
30 and every motorcycle shall have mounted on the front
31 thereof one lamp. If such vehicles are so mechanically
32 constructed, governed, or controlled that they cannot
33 exceed a speed of fifteen miles per hour, they shall have
34 front lamps capable of furnishing light of sufficient
35 candle power to render any substantial object clearly
36 discernible on a level road at least fifty feet directly
37 ahead, and at the same time at least seven feet to the
38 right of the axis of such vehicle for a distance of at least
39 twenty-five feet. If such vehicles can exceed a speed of
40 fifteen miles per hour, then they shall have front lamps
41 capable of furnishing light of sufficient candle power
42 to render any substantial object clearly discernible on
43 a level road at least two hundred feet directly ahead,
44 and at the same time at least seven feet to the right of
45 the axis of such vehicle for a distance of at least one
46 hundred feet: *Provided*, That no front lamp capable of
47 furnishing more than four-candle power light shall be
48 used if equipped with a reflector, unless so designed,
49 equipped or mounted that no portion of the beam of light,
50 when projected seventy-five feet or more ahead of the
51 lamp, shall rise above a plane forty-two inches higher
52 than and parallel with the level surface upon which
53 the vehicle stands.

54 (a) Whenever a motor vehicle is being operated on
55 a roadway or shoulder adjacent thereto from a half
56 hour after sunset to a half hour before sunrise,
57 or at any other time when there is not sufficient light
58 to render clearly discernible persons and vehicles on

59 the highway at a distance of five hundred feet ahead, the
60 driver shall use a distribution of light on composite beam,
61 directed high enough and of sufficient intensity to reveal
62 persons and vehicles at a safe distance in advance of the
63 vehicle, subject to the following requirements and limitations:
64

65 (b) Whenever the driver of a vehicle approaches
66 an oncoming vehicle within five hundred feet, such driver
67 shall use a distribution of light or composite beam so
68 aimed that the glaring rays are not projected into the eyes
69 of the oncoming driver, and in no case shall the intensity
70 portion which is projected to the left of the prolongation
71 of the extreme left side of the vehicle but aimed
72 higher than the center of the lamp from which it comes,
73 at a distance of twenty-five feet ahead, and in no case
74 higher than a level of forty-two inches above the level
75 upon which the vehicle stands at a distance of seventy-
76 feet ahead.

77 The lower-most distribution of light which shall be
78 deemed to avoid glare at all times, regardless of road
79 contour and loading, shall be as follows:

80 When the vehicle is not loaded, none of the high intensity
81 portion of the light which is directed to the left of the
82 prolongation of the extreme left side of the vehicle shall,
83 at a distance of twenty-five feet ahead, project higher
84 than a level of ten inches below the level of the center of
85 the lamp from which it comes.

86 Every trailer and semitrailer, except small two-wheel
87 trailers of one thousand pounds capacity or less, towed
88 closely behind a motor vehicle, and semitrailers when
89 towed alone, whose over-all length, in both cases, including
90 towing vehicles and load, does not exceed thirty feet,
91 when on the roads of this state at night, shall carry at
92 the front of its left side one lamp capable of throwing
93 a white light visible from both sides of such vehicle.

94 Every horse-drawn vehicle, when on any road at night,
95 shall display a light visible from every direction for at
96 least two hundred feet.

97 Every motor vehicle, tractor, trailer or semitrailer,
98 when on the roads of this state, at night, shall have on the

99 rear thereof, and to the left of the axis thereof, one lamp
100 capable of displaying a red light visible for a distance of at
101 least one hundred feet behind such vehicle: *Provided,*
102 That when a vehicle is used in conjunction with another
103 vehicle, or vehicles, only the last of such vehicles shall be
104 required to carry such a lamp. Every motor vehicle, trac-
105 tor, trailer and semitrailer when on any road of this state,
106 at night, shall carry a lamp illuminating with white light
107 the registration plate of such vehicle, so that the char-
108 acters thereon shall be visible for a distance of at least
109 fifty feet. The commissioner shall have power to make
110 and enforce reasonable regulations regarding the kind of
111 lighting devices that shall be used on vehicles.

112 Trailers, having more than two wheels, when operated
113 on any road in this state, shall be connected to the towing
114 vehicle, or preceding trailers, by at least one chain, in
115 addition to the hitch bar, of sufficient strength to hold
116 the trailer on a hill if the hitch bar becomes disconnected,
117 or shall be provided with some other adequate device to
118 prevent rolling backward downhill.

119 The commissioner shall also prepare a list as of January
120 first of each year showing the vehicles registered in
121 each county of the state, the name and address of the
122 owner, and the make and year model of the vehicle. A cer-
123 tified list for each county shall be forwarded to the as-
124 sessor thereof on or before the first day of February of the
125 year one thousand nine hundred thirty-four and on the
126 first day of December of each year thereafter.

127 Any person violating any of the provisions of this
128 section shall be deemed guilty of a misdemeanor, and,
129 upon conviction thereof, shall be fined not less than ten
130 nor more than one hundred dollars.

131 If any section, clause, sentence, paragraph, or other
132 part hereof, shall for any reason be adjudged by any court
133 of competent jurisdiction to be invalid, such judgment
134 shall not affect, impair or invalidate the remainder hereof,
135 but shall be confined in its operation to the part hereof
136 directly involved in the controversy in which such judg-
137 ment shall be rendered.

CHAPTER 63

(Senate Bill No. 157—By Mr. Fleming)

AN ACT to amend article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section nine-a, providing for the cancellation of oil and/or gas leases for the non-payment of delay rental after demand therefor.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 4. Covenants.

Section

9-a. Cancellation of oil and/or gas leases for the non-payment of delay rental after demand therefor.

Be it enacted by the Legislature of West Virginia:

That article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section nine-a, to read as follows:

Section 9-a. *Cancellation of Oil and/or Gas Leases for the Non-payment of Delay Rental After Demand Therefor.*
—Except in the case where operations for the drilling of a well have been commenced thereon and are being conducted thereunder, any undeveloped lease for oil and/or gas in this state hereafter executed in which the consideration therein provided to be paid for the privilege of postponing actual drilling or development or for the holding of said lease without commencing operations for the drilling of a well, commonly called delay rental, has not been paid when due according to the terms of such lease, or the terms of any other agreement between lessor and lessee, shall be null and void as to such oil and/or gas unless payment thereof shall be made within sixty days from the date upon which demand for payment in full of such delay rental has been made by the lessor upon the lessee therein, as hereinafter provided, except, however, in such cases where a bona fide dispute shall exist between lessor

19 and lessee as to any amount due under any such lease.

20 No person, firm, corporation or association shall main-
21 tain any action or proceeding in the courts of this state
22 for the purpose of enforcing or perpetuating during the
23 term thereof any such lease heretofore executed covering
24 oil and/or gas, as against the owner of such oil and/or
25 gas, or his subsequent lessee, if such person or corporation
26 has failed to pay to the lessor such delay rental in full
27 when due according to the terms thereof, for a period of
28 sixty days after demand for such payment has been made
29 by the lessor upon such lessee; as hereinafter provided.

30 The demand for payment referred to in the two pre-
31 ceding paragraphs shall be made in writing and shall be
32 sufficient if served upon such person, firm, corporation or
33 association then holding said lease in the manner pro-
34 vided for in the service of notice under article two, chapter
35 fifty-six of the code, or by publication for three successive
36 weeks in any newspaper published in the county wherein
37 such oil and/or gas property is situated, in whole or in
38 part, or if no newspaper is published in such county, then
39 in any adjoining county; except in the case of a corpora-
40 tion not dissolved by any of the methods prescribed by
41 law, a copy of the notice to any corporation chartered
42 under the laws of this state or a foreign corporation do-
43 ing business in this state shall be served before such pub-
44 lication upon the auditor of the state of West Virginia,
45 as attorney in fact for such corporation.

46 A copy of such notice showing the required service or
47 publication thereof may be filed with the clerk of the
48 county court in which such lease is recorded, and upon
49 payment of a fee of fifty cents for each lease so can-
50 celled, said clerk shall permanently file such notice alpha-
51 betically under the name of the first lessor appearing in
52 such lease and shall stamp upon the margin of the record
53 of such lease in his office the words "cancelled by notice".

54 The word "lessor" shall include the original lessor,
55 as well as his or its successors in title to the oil and/or gas
56 involved. The word "lessee" shall include the original
57 lessee, his or its assignees of record at the time such de-
58 mand is made, and his or its successors, heirs, or personal
59 representatives.

CHAPTER 64

(Senate Bill No. 36—By Mr. Paull, Mr. President, by request)

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article five-a, relating to the treatment and control of cancer and to the establishment in the department of health of a division of cancer control.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 5-a. Cancer Control.

Section

1. Division of cancer control.
2. Educational program.
3. Establishment of clinics.
4. Tissue diagnostic service.
5. Care of needy patients.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article five-a, to read as follows:

Section 1. *Division of Cancer Control.*—There is hereby
2 created a division of cancer control in the state depart-
3 ment of health. The division, under the supervision of
4 the state commissioner of health, shall execute and ad-
5 minister the provisions of this article relating to the
6 diagnosis, treatment and care of persons suffering from
7 cancer. The division shall have authority to direct,
8 control, govern and provide for the management of any
9 state institution for the care and treatment of cancer
10 patients which may hereafter be created by law.

11 The head of the division shall be appointed in the same
12 manner as the heads of other divisions in the depart-
13 ment. He must meet the requirements and possess the
14 qualifications fixed by the merit system council in con-
15 sultation with the public health council. The commis-
16 sioner may also appoint such assistants and employees in
17 the division of cancer control as may be necessary for

18 the proper administration of the provisions of this article,
19 such appointments also to be made in accordance with
20 the rules and regulations of the merit system council.

Sec. 2. *Educational Program.*—The division shall formulate and put into effect throughout the state an educational program for the purpose of preventing cancer and of aiding in its early diagnosis, and for the purpose of giving information to hospitals and cancer patients concerning the proper treatment. In furtherance of its own program, the division may assist and cooperate with any state or national organization conducting an educational program for the prevention of cancer.

Sec. 3. *Establishment of Clinics.*—The division shall have authority to prescribe standard minimum requirements for the organization, equipment and conduct of cancer units or clinics in general hospitals of the state. The division shall establish and maintain, or aid in the establishment and maintenance of, a sufficient number of cancer diagnostic and treatment clinics meeting such requirements, so located that they are within reasonable traveling distance of any citizen of the state in need of treatment. In the establishment and operation of such clinics and in the fixing of such minimum requirements, the division shall consult and cooperate with the West Virginia state medical association.

In order to determine the progress of the disease and the success of the treatment being used, the division shall, insofar as practicable, provide a method for following up each case and bringing the patient back to the clinic at frequent intervals.

Sec. 4. *Tissue Diagnostic Service.*—The division shall furnish, within the limits of available funds, free tissue diagnostic service to all needy patients. In providing this service the division may use either the state-owned laboratory in the department of health, or privately owned laboratories approved by the department.

Sec. 5. *Care of Needy Patients.*—The division shall prescribe rules and regulations specifying to what extent and on what terms and conditions needy cancer patients

4 may receive financial aid for the diagnosis and treatment
5 of cancer in any approved hospital in this state. The
6 division is authorized to furnish aid, within the limits
7 of available funds, to such patients, and shall have the
8 power to administer such aid in any manner which in its
9 judgment will afford the greatest benefit to cancer pa-
10 tients throughout the state.

11 In determining whether a particular patient is en-
12 titled to such assistance, the division may call upon the
13 county departments of public assistance for such investi-
14 gation as may be required. In order to receive such aid,
15 however, the patient need not qualify for public assistance
16 or general relief as administered by the department of
17 public assistance.

CHAPTER 65

(Com. Sub. for House Bill No. 230—Originating in the House Committee on
the Judiciary)

AN ACT to amend article four, chapter sixteen of the code of
West Virginia, one thousand nine hundred thirty-one, by
adding thereto four new sections to be designated sections
twenty-seven, twenty-eight, twenty-nine and thirty, re-
lating to the custody, detention and treatment of persons
suffering from venereal diseases.

[Passed March 10, 1943; in effect from passage. Approved by the Governor.]

Article 4. Venereal Diseases.

Section

- 27. Additional power and authority of local health officer.
- 28. Detention places.
- 29. Detention and treatment.
- 30. Continuous jurisdiction.

Be it enacted by the Legislature of West Virginia:

That article four, chapter sixteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, be amended by
adding thereto four new sections to be designated sections

twenty-seven, twenty-eight, twenty-nine and thirty, to read as follows:

Section 27. *Additional Power and Authority of Local Health Officer.*—The local health officer, in exercising any of the powers or authority vested in him by sections nine, ten, eleven, twelve, sixteen and twenty-one of this article, with respect to any patient, minor or other person suffering or believed by him to be suffering from any venereal disease or diseases, may forthwith cause any such patient, minor or other person to be delivered into the custody of the state department of health for detention and treatment as provided in this article.

Sec. 28. *Detention Places.*—The state department of health is hereby authorized and empowered to establish and provide a suitable place or places in the state of West Virginia for the detention of persons found to be suffering from any of the venereal diseases defined in section one of this article, and to supervise, use and maintain such place or places in a manner deemed necessary or desirable in carrying out the provisions of this article.

Sec. 29. *Detention and Treatment.*—There shall be accepted and received into the custody of the state department of health at such place or places provided for in the next preceding section, persons found upon investigation and examination to be suffering from venereal diseases as defined in section one of this article, for the purpose of detention and necessary medical attention and treatment thereat or therein, until found to be and pronounced cured of the venereal disease or diseases from which they are suffering.

Sec. 30. *Continuous Jurisdiction.*—The state department of health is vested with and given continuous jurisdiction, authority and control over all persons received at and to be detained in or on the place or places provided for in the preceding sections, for all the purposes of this article, and until such persons are found upon

- 7 proper examination to be and pronounced entirely free
- 8 from and cured of any venereal disease or symptoms of
- 9 such disease existing.

CHAPTER 66

(House Bill No. 259—By Mr. Hansbarger)

AN ACT directing the disposition of the interest from the money and remittances from a fund appropriated by the United States government on June twenty-fifth, one thousand nine hundred eight, to pay the West Virginia national guard from the time of the call until the date of muster into the service of the United States for the Spanish American war, by the payment thereof to the United Spanish war veterans of the state of West Virginia.

[Passed March 9, 1943; in effect from passage. Approved by the Governor.]

Spanish American War Fund.

Section

1. Governor trustee of Spanish American war fund; investment of fund; payment of claims; unexpended balance; bond of quartermaster; use of funds.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Governor Trustee of Spanish American War Fund; Investment of Fund; Payment of Claims; Unexpended Balance; Bond of Quartermaster; Use of Funds.—*
- 2 That the governor of this state shall remain the trustee
 - 3 of the Spanish American war fund, and that from and
 - 4 after the passage of this act, the said trustee shall cause
 - 5 such fund to be invested in some security of the state of
 - 6 West Virginia or the United States government, bearing
 - 7 semi-annual interest, and that the interest on said fund
 - 8 be payable on the first of January and the first of July
 - 9 in each and every year; and out of said fund there be
 - 10 paid any just and properly audited and verified claim of
 - 11 any of the veterans entitled thereto who may hereafter

14 apply for same, and after paying any claims received
15 prior to the interest period each year the unexpended
16 balance of the interest for each half year shall be paid to
17 the quartermaster of the West Virginia state associa-
18 tion of the United Spanish war veterans, to be used
19 by him for the benefit of said veterans, accounting for
20 as other funds of said veterans: *Provided*, That said quar-
21 termaster is required by the association to execute a
22 surety bond for the proper application of and accounting
23 for the funds so received: *Provided further*, That the
24 funds so paid shall be used for the legitimate expenses
25 of the department encampment.

CHAPTER 67

(Com. Sub. for Senate Bill No. 227—Originating in the Senate Committee
on the Judiciary)

AN ACT to amend article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be designated section thirteen-a, relating to salary deductions allowed by the auditor.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 3. Appropriations and Expenditures.

Section

13-a. State auditor authorized to make deductions from salaries of state officials and employees to purchase United States government bonds, etc.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section to be designated section thirteen-a, to read as follows:

Section 13-a. *State Auditor Authorized to Make Deductions from Salaries of State Officials and Employees to Purchase United States Government Bonds, etc.*—The

4 auditor of the state of West Virginia is authorized to de-
5 duct and withhold sums from the salaries or other com-
6 pensation of state officials and employees, to purchase
7 United States government bonds and other United States
8 government obligations, or to pay taxes as may be required
9 by an act or acts of the Congress of the United States of
10 America.

11 The auditor of the state of West Virginia is authorized,
12 upon the request of any state official or employee, to de-
13 duct and withhold sums from the salaries or compensa-
14 tion of state officials and employees to make voluntary
15 purchases of United States government bonds or other
16 United States government obligations for such officials or
17 employees.

18 The auditor shall keep an account of the accumulated
19 deductions of each state official and employee and shall
20 issue receipts to state officials and employees for all
21 sums deducted and withheld as herein provided. The sums,
22 when deducted, shall be transferred by the auditor to a
23 special fund in the state treasury, and later transmitted to
24 the official or agent of the United States government
25 designated by the secretary of the treasury of the United
26 States of America.

27 Should any official or employee leave the employ of
28 the state at a time when there is not sufficient accumula-
29 tion of deductions from his salary or compensation to pur-
30 chase a United States government bond, then the auditor
31 shall either purchase United States government savings
32 stamps in the amount of the accumulation or refund to
33 the official or employee the accumulation as an erroneous
34 payment into the special fund herein created.

35 The auditor shall be responsible for the delivery of
36 United States government bonds or obligations pur-
37 chased with the deductions from the salaries or compen-
38 sation of state officials and employees only when the
39 United States government bonds or obligations are pre-
40 sented to him by the official or agent of the United States
41 government for delivery to the state officials or em-
42 ployees.

43 To promote efficiency and economy in making such
44 deductions as provided herein, the auditor is authorized

45 to promulgate rules and regulations and to designate the
46 time for the presentment of the payroll requisitions for
47 state officials and employees and requisitions for other
48 claims against the state: *Provided*, That all officials and
49 employees shall be paid at least once every thirty-one
50 days. All officials and employees of the state shall com-
51 ply with the rules and regulations promulgated by the
52 auditor under this section.

CHAPTER 68

(House Bill No. 215—Originating in the House Committee on
Game and Fish)

AN ACT to amend and reenact sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, article one; to add new sections to be numbered four-a and sixteen to article one; to amend and reenact sections one, three, six, seven, eight, nine and eleven, article one-a; to repeal section ten, article one-a, and to add a new section to be numbered one-a to article eight, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the reorganization and powers of the conservation commission of West Virginia.

[Passed March 6, 1943; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article

1. Conservation Commission.

1-a. Executive Director.

8. State Forests, Game and Fish Refuges and Public Shooting Grounds.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, article one, be amended and reenacted; and that said article one be further amended by adding thereto new sections to be numbered four-a and sixteen; that sections one, three, six, seven, eight, nine and eleven, article one-a, be amended and reenacted; that section ten of said article

one-a be repealed; and that article eight be amended by adding thereto a new section to be numbered one-a, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as heretofore amended, to read as follows:

Article 1. Conservation Commission.

Section

3. Members of the commission.
4. Terms of office of members; appointment.
- 4-a. Nomination and appointment of member or members.
5. Qualifications of members; political activities to vacate office.
7. Quorum.
8. Travel expenses.
10. Regular and special meetings.
11. Powers and duties of the commission.
12. Director to submit matters for advice.
14. Annual report.
16. Powers and duties transferred to commission.

Section 3. *Members of the Commission.*—The conservation commission shall be composed of seven members, one of whom shall be appointed for each of the six congressional districts of West Virginia, and the seventh from the state at large. The members shall be appointed by the governor, with the advice and consent of the senate.

Sec. 4. *Terms of Office of Members; Appointment.*—The terms of office of the members shall be eight years, except that members in office when this section becomes effective shall continue to hold their respective offices until the expiration of their respective terms and until their successors are appointed and qualified. On or before July first, one thousand nine hundred forty-three, the governor shall appoint two members to bring the present membership of the commission to seven members. Within thirty days from the effective date of this section the commission shall submit two lists of names to the governor to fill the new appointments. The commission shall submit one list to fill an appointment from the second congressional district for a term ending June thirtieth, one thousand nine hundred forty-four; and a list to fill an appointment from the sixth congressional district for a term ending June thirtieth, one thousand nine hundred forty-six, and the governor shall make his appointments from such lists on

20 or before July first, one thousand nine hundred forty-
21 three. On or before June first, one thousand nine hun-
22 dred forty-three, the commission shall submit lists of
23 names to the governor to replace present members of
24 the commission whose terms expire June thirtieth, one
25 thousand nine hundred forty-three, one appointee to be
26 from the first congressional district for a term ending
27 June thirtieth, one thousand nine hundred forty-eight,
28 and the other appointee to be from the fifth congres-
29 sional district for a term ending June thirtieth, one
30 thousand nine hundred forty-nine, and the governor
31 shall make appointments from such lists on or before
32 July first, one thousand nine hundred forty-three. Nomi-
33 nations and appointments made for those members whose
34 terms expire June thirtieth, one thousand nine hundred
35 forty-four, second congressional district; June thirtieth,
36 one thousand nine hundred forty-five, member-at-large;
37 and June thirtieth, one thousand nine hundred forty-
38 six, sixth congressional district, shall be made under pro-
39 visions of section four-a of this article and shall be for
40 the full term of eight years. On or before the fifteenth
41 day of May, one thousand nine hundred forty-seven,
42 the commission shall submit to the governor two lists
43 of nominees for the terms expiring June thirtieth, one
44 thousand nine hundred forty-seven; one list from the
45 third congressional district to be for an appointment
46 ending June thirtieth, one thousand nine hundred fifty-
47 one, and the other from the fourth congressional dis-
48 trict for a full term of eight years. At the expirations
49 of appointments provided in this section, all other ap-
50 pointments shall be made in the manner provided for by
51 section four-a of this article.

Sec. 4-a. *Nomination and Appointment of Member or*
2 *Members.*—At its April meeting in each year after the
3 year one thousand nine hundred forty-three, the com-
4 mission shall hold a regular session for the purpose of
5 selecting names to be submitted to the governor as
6 nominees for appointment to the commission for any
7 term expiring on June thirtieth next, or to fill any va-
8 cancy. The commission shall prepare and submit to the

9 governor a list of not less than three names for each
10 vacancy to be filled. Appointments to fill such vacancies
11 shall be made from such a list or lists. Vacancies shall
12 not be filled except in the manner provided. No nomina-
13 tions shall be made for the year one thousand nine hun-
14 dred fifty nor for every eighth year thereafter: *Provided,*
15 *however,* That members of the commission who serve
16 after July one, one thousand nine hundred forty-three,
17 for less than a full term of eight years, shall be eligible
18 for reappointment for a full term.

Sec. 5. *Qualifications of Members; Political Activities*
2 *to Vacate Office.*—The members of the commission shall
3 be citizens and residents of this state selected with
4 special reference to their training and experience in re-
5 lation to the principal activities required of the com-
6 mission, and for their ability and fitness to perform their
7 duties within the purpose of this chapter. No member of
8 the commission shall be a candidate for, nor hold any
9 elective or appointive public office other than that of a
10 member of the commission, nor shall he be employed by
11 nor receive compensation in any department of the execu-
12 tive, administrative or judicial branches of the govern-
13 ment of this state: *Provided, however,* That employment
14 of an occupational nature, such as, by way of illustration
15 but not of limitations, a teacher or the like, shall not
16 operate to disqualify such a member. In the event any
17 member of the commission becomes a candidate for or
18 is appointed to any public office, his office as a member
19 of the commission shall immediately be vacated.

Sec. 7. *Quorum.*—A majority of the commission mem-
2 bers shall constitute a quorum for the transaction of
3 business.

Sec. 8. *Travel Expenses.*—Each member of the com-
2 mission shall receive reimbursement for his actual and
3 necessary traveling expenses incurred in the perform-
4 ance of his official duties. Members of the commission
5 shall serve without payment for their services.

Sec. 10. *Regular and Special Meetings.*—The commis-
2 sion shall hold four regular sessions each year, as fol-

3 lows: On the first Monday in the months of July, Octo-
4 ber, January and April. Special meetings may be con-
5 vened on the call of the executive director, the governor,
6 or a majority of the commission, by written notice to all
7 members. At the meeting held in July of each year, the
8 commission shall elect one of its members as chairman
9 and one of its members as vice chairman to act as pre-
10 siding officer at meetings of the commission. Such of-
11 ficers shall hold office for a period of one year.

Sec. 11. *Powers and Duties of the Commission.*—The
2 commission, in addition to the other powers contained in
3 this chapter, shall have the authority to:

4 (1) Make rules and regulations for the government of
5 the various divisions within the commission;

6 (2) Consider and study the entire field of legisla-
7 tion and administrative methods concerning the forests
8 and their maintenance and development, the protec-
9 tion of fish and game, the beautification of the state
10 and its highways, and the development of lands and
11 natural resources;

12 (3) Consider the conservation problems of particular
13 localities or districts of the state;

14 (4) Formulate policies and practices for the director
15 relative to any duties imposed upon him by law;

16 (5) Investigate the work of the director, and for this
17 purpose to have access at reasonable times to all official
18 books, papers, documents and records;

19 (6) Advise or make recommendations to the governor
20 relative to the conservation policy of the state;

21 (7) Keep minutes of the transactions of each ses-
22 sion, regular or special, which shall be public records
23 and filed with the director;

24 (8) Sign and execute in the name of the state any
25 contract or agreement with the federal government or
26 its departments, subdivisions of the state, corporations,
27 associations, copartnerships or individuals;

28 (9) Make a general conservation plan or program for
29 the state; conduct research in improved conservation
30 methods and disseminate information on conservation
31 to residents of the state;

32 (10) Organize departments or divisions for proper ad-
33 ministration and functioning of the problems of game,
34 fish and other wildlife, forestry, parks, natural resources
35 and publicity;

36 (11) Set and alter the open seasons and bag limits
37 for game and fish, closing of streams and other pro-
38 visions for the protection, management or propagation
39 of game, fish and other wildlife;

40 (12) Designate such localities as the commission shall
41 determine to be necessary and desirable for the per-
42 petuation of any species of fish, and for the purpose of
43 replenishing adjacent fishing waters;

44 (13) Designate such localities as the commission shall
45 determine to be necessary and desirable for the perpetua-
46 tion of any species of game bird or animal and for the
47 purpose of replenishing adjacent hunting grounds;

48 (14) Enter private lands to make surveys or investi-
49 gations for conservation purposes;

50 (15) Acquire by purchase, condemnation, lease or
51 agreement or receive by gifts or devise, lands or waters
52 suitable for the following purposes:

53 (a) For state forests for the purpose of growing
54 timber, demonstration forests, protecting watersheds or
55 providing public recreation;

56 (b) For state parks for the purpose of preserving
57 scenic or historical or natural wonders or providing pub-
58 lic recreation;

59 (c) For public shooting, trapping or fishing grounds or
60 waters for the purpose of providing areas in which any
61 citizen may hunt, trap or fish;

62 (d) For fish hatcheries and game farms;

63 (e) For forest nurseries and experimental stations;

64 (f) To extend and consolidate lands or waters suitable
65 for the above purpose by exchange of other lands or
66 waters;

67 (g) To acquire by deed or in any other manner from
68 the public land corporation such lands that are suit-
69 able for forestry and other allied matters;

70 (16) Capture, propagate, transport, sell or exchange
71 any species of game or fish, including hides, furs or parts
72 thereof;

73 (17) Exercise the powers of this chapter for the pro-
74 tection of forests and to cooperate with other agencies
75 to this end;

76 (18) Cooperate with the state road commission in the
77 development of roadside parks and planting of roadside
78 slopes;

79 (19) Cooperate with other state and federal agen-
80 cies to attain the objectives set forth in this chap-
81 ter;

82 (20) Keep a complete and accurate record of all pro-
83 ceedings, record and file all bonds and contracts taken
84 or entered into, and assume all responsibility of the
85 custody and preservation of all papers and documents
86 pertaining to the commission. Rules and regulations
87 shall be recorded in a book kept especially for this
88 purpose, and these rules and regulations may be pub-
89 lished for general circulation. All other records and
90 entries necessary to show the official conduct of the
91 department shall be preserved, and shall be public
92 records and open for inspection during business
93 hours;

94 (21) The commission shall have the right to delegate
95 to the director all or any of the powers vested in it by
96 this section, and to exercise the same by an order en-
97 tered upon the minutes of its meeting at any time. Such
98 order may be rescinded, revoked or modified at any
99 time;

100 (22) Devise, establish and put into effect a system
101 for the selection and employment of personnel, for the
102 purpose of insuring impartial selection of competent,
103 qualified personnel for the discharge of duties required
104 in the efficient handling of all matters required of per-
105 sonnel employed by the conservation commission, ex-
106 cepting, however, the director;

107 (23) Regulate fires in the woods or in their proximity
108 at such times and in such localities as is necessary to
109 reduce the danger of forest fires.

Sec. 12. *Director to Submit Matters for Advice.*—The
2 executive director shall submit to the commission or any
3 committee thereof at any regular or special meeting any

4 matter upon which he desires the advice or opinion of
5 the commission.

Sec. 14. *Annual Report.*—The commission shall prepare
2 and present an annual report to the governor, covering its
3 activities during the preceding fiscal year. It shall make
4 recommendations to the Legislature regarding conserva-
5 tion, forestry, game and fish and other allied matters.

Sec. 16. *Powers and Duties Transferred to Commis-*
2 *sion.*—The powers and duties granted by chapter twenty
3 of the code of West Virginia, one thousand nine hun-
4 dred thirty-one, as amended, to the director of conserva-
5 tion, to any officer, board or commission, or elsewhere
6 vested in the game, fish and forestry commission or di-
7 rector, shall now be vested in the conservation commis-
8 sion. It shall have possession of all records, papers, equip-
9 ment and property of every nature now belonging to
10 the conservation commission. Wherever the word or
11 words "director" or "director of conservation" shall ap-
12 pear or be mentioned in any section of this chapter, or
13 any other general law relating to conservation, game,
14 fish or forestry, the same shall be deemed to mean and
15 shall mean the "executive director of the conservation
16 commission of West Virginia", pursuant to the power and
17 authority vested in him by the said commission.

Article 1-a. Executive Director.

Section

1. Appointment; term of office.
3. Oath and bond.
6. Assistants and employees.
7. Powers and authority of the director.
8. Powers and duties exercised by employees.
9. Legal services by attorney general and prosecuting attorneys; em-
ployment of other attorneys.
10. Repealed.
11. Cooperation with federal government in wildlife projects.

Section 1. *Appointment; Term of Office.*—The commis-
2 sion shall select a competent person to be known as the
3 executive director who shall be its chief administrative
4 officer and have charge of all activities under the juris-
5 diction of the commission. No member of the conserva-
6 tion commission, and no person who has served thereon,

7 shall be eligible for selection as executive director until
8 the expiration of at least two years from resignation
9 or completion of term thereafter. The director shall serve
10 at the will and pleasure of the commission. The director
11 of conservation in office at the effective date of passage
12 of this section shall remain in office and serve as the execu-
13 tive director until his term of appointment expires. How-
14 ever, should a vacancy occur through resignation, death
15 or otherwise, the executive director shall be selected by
16 the commission as provided in this section.

Sec. 3. *Oath and Bond.*—The director, before entering
2 upon the duties of his office, shall take and subscribe to
3 the oath prescribed by the constitution. He shall also
4 execute a bond approved by the commission in the
5 penalty of five thousand dollars for the faithful perform-
6 ance of his duties as director, and in case a surety com-
7 pany executes such bond the premiums shall be paid
8 out of the funds of the commission. The bond and the
9 oath shall be filed with the secretary of state.

Sec. 6. *Assistants and Employees.*—The director, as
2 authorized by the commission, shall have charge of and
3 direct, supervise and control all employees of the com-
4 mission. With the approval of the commission, he may
5 make appointments and fix salaries pursuant to regula-
6 tions prescribed by the commission. All employees shall
7 be selected and employed under the system established
8 by subsection twenty-two, section eleven, article one
9 of this chapter.

Sec. 7. *Powers and Authority of the Director.*—The di-
2 rector shall have the power and authority delegated to
3 him by the commission.

Sec. 8. *Powers and Duties Exercised by Employees.*—
2 All powers and duties vested in the commission, except
3 the power to sign contracts, may be exercised by its
4 appointees or employees pursuant to delegation of powers
5 to be made by the commission.

Sec. 9. *Legal Services by Attorney General and Prose-*
2 *cuting Attorneys; Employment of Other Attorneys.*—The

3 attorney general and his assistants and the prosecuting
4 attorneys of the several counties shall render to the com-
5 mission, without additional compensation, such legal serv-
6 ices as it shall require of them in the discharge of its du-
7 ties under the provisions of this chapter. The commission
8 may, in an emergency and with prior approval of the at-
9 torney general, employ an attorney to act in proceedings
10 wherein criminal charges are brought against an employee
11 or appointee of the commission because of action taken in
12 the line of duty. An amount not to exceed three hundred
13 dollars may be expended by the commission for any one
14 case.

Sec. 10. *Repealed.*—This section is hereby repealed.

Sec. 11. *Cooperation with Federal Government in Wild-
life Projects.*—The state of West Virginia hereby assents
2 to the provision of the act of Congress entitled "An Act to
3 provide that the United States shall aid the states in wild-
4 life restoration projects and for other purposes," approved
5 September second, one thousand nine hundred thirty-
6 seven (Public No. four hundred fifteen, seventy-fifth
7 Congress), and the commission through the executive di-
8 rector is hereby authorized, empowered and directed to
9 perform such acts as may be necessary to the conduct and
10 establishment of cooperative wildlife restoration projects,
11 as defined in said act of Congress, in compliance with said
12 act and with rules and regulations promulgated by the
13 secretary of interior thereunder. Funds accruing to the
14 state from license fees paid by hunters shall not be di-
15 verted for any purpose other than the activities of this
16 chapter.
17

Article 8. State Forests, Game and Fish Refuges and Public Shooting Grounds.

Section

1-a. Acquisition of lands from the public land corporation.

Section 1-a. *Acquisition of Lands from the Public
Land Corporation.*—In the event that the public land
2 corporation is authorized to determine submarginal lands
3 which are suitable only for forestry, the commission is
4 hereby authorized to receive the title, administration and
5

6 control of the same, and in such cases to assert all the
7 rights of ownership incidental thereto; and it shall have
8 the power to cut and sell timber, to mine and market
9 minerals or lease the same for such purpose, and in
10 general to do all and every act which the owner of any
11 land could do. Rents, royalties, income, issues and profits
12 from any such land are hereby appropriated to the use
13 of the commission, and shall be disbursed as follows:
14 Seventy-five per cent shall go to the administration and
15 operating costs of the commission in its several branches,
16 one per cent shall be paid into the state fund general
17 revenue, and the remaining twenty-four per cent shall
18 be paid to the sheriff of the county in which the land
19 from which such revenue is derived lies. Funds paid to
20 any sheriff under the provision of this section shall be
21 disbursed in the same manner as though there were
22 taxes collected under the last levy laid, previous to the
23 receipt thereof. Such lands shall be entered in the name
24 of the commission on the land books of the county for
25 the proper district, but no valuation shall be charged
26 against it. All such lands are hereby appropriated to
27 paramount public usage, from and after the time title
28 to or administration of same is transferred to the com-
29 mission.

CHAPTER 69

(Senate Bill No. 84—By Mr. Burchett)

AN ACT to amend and reenact section eight, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to mine inspectors.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 1. Department of Mines.

Section

8. Mine inspector; qualifications; oath; bond; removal; salary and expenses.

Be it enacted by the Legislature of West Virginia:

That section eight, article one, chapter twenty-two, of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 8. *Mine Inspector; Qualifications; Oath; Bond; Removal; Salary and Expenses.*—Every person appointed to the office of mine inspector shall be a citizen of West Virginia, of good moral character and temperate habits, shall have a practical knowledge of mining and the proper ventilation and drainage of mines; and a knowledge of the gases met with in coal mines, and shall be a miner of at least six years' experience in coal mines. A diploma from any accredited school of mining engineering, or having otherwise been engaged as an employee for six years within coal mines, shall qualify as two years' experience. He shall not, while in office, be interested as owner, operator, stockholder, superintendent or engineer of any coal mine. Before entering upon the discharge of his duties he shall take the oath of office prescribed by the constitution, and shall execute a bond in the penalty of two thousand dollars with security to be approved by the governor conditioned upon the faithful discharge of his duty, a certificate of which oath and bond shall be filed in the office of the secretary of state.

A mine inspector shall be removed from office by the chief of the department of mines for incompetency, neglect of duty, drunkenness, malfeasance or for other good cause.

The salaries of mine inspectors shall not be less than three thousand dollars nor more than thirty-nine hundred dollars per annum, and actual traveling expenses; such salary to be fixed by the chief of the department of mines, and shall be based on the ability and experience of the inspector: *Provided*, That before payment of such expenses shall be made to the inspector he shall file an account of such expenses, verified by his affidavit showing they accrued in the discharge of his official duties: *Provided, however*, That the salaries of mine inspectors

36 herein mentioned shall be for the period ending June
37 thirtieth, one thousand nine hundred forty-five.

— C —

CHAPTER 70

(Senate Bill No. 191—By Mr. Johnston, by request)

AN ACT to amend and reenact section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-three, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the administration of the death, disability and retirement fund of the department of public safety.

[Passed March 10, 1943; in effect from passage. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

28. Pension fund board; payments from fund.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-three, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 28. *Pension Fund Board; Payments from Fund.*—

2 (a) The board of commissioners created by section twenty,
3 article two, chapter fifteen of the code of West Virginia,
4 one thousand nine hundred thirty-one, and the superin-
5 tendent of the department of public safety shall con-
6 stitute a pension fund board and shall have the power
7 to make awards or to revise awards previously made for
8 such times and under such terms and conditions as are
9 hereinafter provided for, and shall make all necessary
10 rules and regulations regarding the same not inconsistent
11 with this act.

12 (b) Any member of the department of public safety

13 who has served in said department for a period of twenty
14 years, upon application by said member to the superin-
15 tendent of said department, together with certificate of
16 service and with the approval of the board of commis-
17 sioners, shall be retired and shall thereupon receive an-
18 nually, in monthly installments, from said pension fund
19 an amount equal to three per cent of the total salary
20 earned by him during his service in the department:
21 *Provided, however,* That any member of the department
22 who has served in the department for a period of twenty
23 years and who, in the opinion of the pension fund board,
24 is incapable of performing his duties as a member of the
25 department due to physical or other handicaps or defects,
26 may be retired, and shall thereupon receive annually in
27 monthly installments, from said pension fund an amount
28 equal to three per cent of the total salary earned by him
29 during his service in the department. Any member, ab-
30 sent from duty with leave of the superintendent, who
31 shall have been enlisted or inducted, or being a member
32 of the Reserve Officer's Corps, shall have been called to
33 duty in the armed forces of the United States since the
34 fourteenth day of September, one thousand nine hundred
35 forty, and prior to the close of hostilities in the war now
36 being waged by the United States, shall be entitled to and
37 receive credit on the minimum period of service required
38 by law for retirement on pension from the service of
39 the department for a period equal to the full time he
40 shall, pursuant to such enlistment, induction or call,
41 have served with said armed forces: *Provided,* That such
42 member shall (1) be honorably discharged from said
43 armed forces, (2) within one year after cessation of hostili-
44 ties or honorable discharge from duty with any army of
45 occupation in any enemy country present himself to the
46 superintendent and offer to resume service as an active
47 member of the department, and (3) upon his return and
48 proffer of resumption of active membership be deter-
49 mined by the superintendent to be mentally capable and
50 physically fit to perform the duties of a member of the
51 department of public safety: *Provided further,* That the
52 amount in the aggregate to which any such member shall
53 be entitled to receive upon and by reason of retirement

54 may equal, but shall not exceed, the total salary earned by
55 him during his service in the department plus that amount
56 which he would have received if he, at his grade and
57 rank, had remained in active membership for an addi-
58 tional period equal to the term of his service with the
59 armed forces as aforesaid. If any member on leave of
60 absence and while serving with the armed forces of the
61 United States pursuant to enlistment, induction or call
62 as aforesaid shall lose his life while engaged in perform-
63 ance of his duty as a member of such armed forces or
64 shall die as a result of illness or injury from causes aris-
65 ing directly out of his performance of duty while a mem-
66 ber of such armed forces of the United States, all moneys
67 which shall have been deducted from his salary as a
68 member of the department and deposited in the death,
69 disability and retirement fund created by section twenty-
70 seven hereof shall be withdrawn from said fund and
71 paid over to the widow of such member, if any, and if
72 none, to his next of kin.

73 (c) Any member of said department of public safety
74 who has heretofore received or who may hereafter re-
75 ceive permanent disability in the performance of his duty
76 shall, upon certificate of disability of a physician desig-
77 nated for the purpose by the board of commissioners, be
78 retired upon an annual pension of not less than two nor
79 more than five per cent of twenty years' salary based
80 upon his average earnings while employed by the depart-
81 ment: *Provided*, That in no case shall the total amount
82 received be more than the total amount received when
83 regularly employed as a member of the department.

84 (d) The widow, or children under the age of sixteen
85 years, or sole dependent parent of any member of the
86 department of public safety who shall have heretofore
87 or shall hereafter lose his life in the performance of his
88 duty, or where death results from injury received in the
89 performance of duty, shall receive an annual pension that
90 shall not exceed two per cent of twenty years' salary
91 based on his average earnings while employed by the
92 department: *Provided*, That in case of a widow and
93 children such pension shall be for the widow and the
94 children and shall be paid to the widow, and in case there

95 are three or more children under the age of sixteen years
96 and no widow, the said children shall receive the pension
97 in equal shares until they attain the age of sixteen years,
98 and in case there are two children under the age of
99 sixteen years and no widow, they shall be paid such
100 pension, but not to exceed fifteen dollars monthly each,
101 until they attain the age of sixteen years, and in the case
102 of only one child and no widow, he or she shall be paid
103 such pension, but not to exceed fifteen dollars monthly,
104 until he or she attains the age of sixteen years: *Provided*
105 *further*, That in case there is no widow and no children
106 under the age of sixteen years, then such pension shall
107 be paid to the parent or parents dependent upon the de-
108 ceased member: *Provided further*, That if any widow
109 entitled to a pension aforesaid dies or remarries, then
110 such pension shall cease to be paid to such widow, or her
111 estate, but shall be paid to each of said children, or child,
112 until they reach the age of sixteen years. No such child
113 shall receive more than fifteen dollars per month.

114 (e) Any member of the department of public safety
115 who is released or who severs his connection with the
116 department of public safety and who has served two
117 full years or more with the department, shall, upon re-
118 quest, be refunded all deductions made from his salary,
119 but without interest, on account of this fund. But in
120 event that such refund is made, and such member sub-
121 sequently reenlists, no credit shall be allowed to him
122 for any former service. If any member is released or
123 severs his connection with the department before he
124 has served two full years, he shall forfeit his right to
125 have refunded to him any such deductions.

126 (f) All outstanding annuities shall be paid from the
127 current income to such fund and from the interest on
128 or income from an accumulated fund amounting to one
129 hundred seven thousand dollars.

130 (g) All future awards from such fund shall be valued
131 annually, and reserves based on sound actuarial princi-
132 ples for their payment shall be carried on the funds ac-
133 count as a liability against the general fund.

134 (h) An adequate system of accounting shall be installed
135 and kept so as to insure a proper record of all trans-

136 actions in a detailed record of all contributions and re-
137 funds, dates of enlistments, time served, and all releases
138 of members.

CHAPTER 71

(Senate Bill No. 192—By Mr. Johnston, by request)

AN ACT to amend and reenact section nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the care and welfare of members of the department of public safety and their families.

[Passed March 10, 1943; in effect from passage. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

9. Equipment and supplies; insurance; local headquarters; quarters for members; expenses of transfer of household furniture and effects of members; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

Be it enacted by the Legislature of West Virginia:

That section nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-two, acts of the Legislature, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 9. *Equipment and Supplies; Insurance; Local Headquarters; Quarters for Members; Expenses of Transfer of Household Furniture and Effects of Members; Medical and Hospital Fees for Injuries and Illnesses of Members Incurred in Line of Duty.*—The standard uniform to be used by the department of public safety on and after the first day of July, one thousand nine hundred thirty-five, shall be as follows: Forestry green blouse with West Virginia state police emblem on sleeve; black shoulder

10 strap; one-inch black stripe around sleeve, four inches
11 from end of sleeve; forestry green breeches with one-
12 inch black stripe down the side; trousers (slacks) with
13 one-inch black stripe down the side for officers and clerks
14 regularly enlisted in the department; forestry green shirts
15 with West Virginia state police emblem on sleeve; black
16 shoulder straps; forestry green mackinaw with West
17 Virginia state police emblem on sleeve; black shoulder
18 straps; one-inch black stripe around sleeve four inches
19 from end of sleeve; campaign hat of olive drab color;
20 cordovan Sam Browne belt with holster; cordovan leg-
21 gings and shoes; the officers' uniform will have one and
22 one-quarter inch black stripe around the sleeve of blouse
23 and mackinaw four inches from end of sleeve circumscribed
24 with one-half inch gold braid, also black collars on blouse,
25 with two silver shoulder bars for captains, one silver
26 shoulder bar for first lieutenant and one gold shoulder
27 bar for second lieutenant. For non-commissioned officers,
28 the uniform blouse and shirt will have thereon black
29 chevrons of the appropriate rank.

30 The superintendent shall provide the members of the
31 department of public safety with suitable arms and
32 weapons, and, when and where he shall deem it necessary,
33 with suitably equipped horses, automobiles, motorcycles,
34 watercraft, aeroplanes and other means of conveyance,
35 to be used by the department of public safety, the gov-
36 ernor, and other officers and executives in the discretion
37 of the governor, in times of flood, disaster, and other
38 emergencies, for traffic study and control, criminal and
39 safety work, and in other matters of official business.
40 He shall also provide the standard uniforms for all mem-
41 bers of the department, for officers, non-commissioned
42 officers and troopers herein provided for. All uniforms
43 and all arms, weapons and other property furnished the
44 members of the department of public safety by the state
45 of West Virginia shall be and remain the property of the
46 state.

47 The superintendent is authorized to purchase and main-
48 tain on behalf of members, group life insurance not to
49 exceed the amount of five thousand dollars on behalf of
50 each of the commissioned officers and not to exceed four

51 thousand dollars on behalf of each of the non-commis-
52 sioned officers and troopers.

53 The superintendent is authorized to contract and furnish
54 at department expense, medical and hospital services for
55 treatment of illness and/or injury of a member which
56 shall be determined by the superintendent to have been
57 incurred by such member while engaged in the per-
58 formance of duty and from causes beyond control of such
59 member.

60 The superintendent shall establish and maintain local
61 headquarters at such places in West Virginia as are in
62 his judgment suitable and proper to render the depart-
63 ment of public safety most efficient for the purpose of
64 preserving the peace, protecting property, preventing
65 crime, apprehending criminals and carrying into effect
66 all other provisions of this article. The superintendent
67 shall provide, by lease or otherwise, for housing and
68 quarters for the accommodation of the members of the
69 department of public safety, and shall provide all equip-
70 ment and supplies necessary for them in the performance
71 of the duties of their office.

72 When a member shall be transferred from one station
73 to another the superintendent may, when he shall de-
74 termine that such transfer shall be rendered necessary
75 or desirable for reasons other than fault or misconduct
76 on the part of such member, contract and furnish at
77 department expense transportation of the household
78 furniture and effects and the immediate family of such
79 member from the former station to the newly assigned
80 station.

CHAPTER 72

(Senate Bill No. 190—By Mr. Johnston, by request)

AN ACT to amend and reenact section nineteen, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to suspension or removal of members of the department of public safety.

[Passed March 9, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.**Section****19. Suspension or removal of members.**

Be it enacted by the Legislature of West Virginia:

That section nineteen, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred and thirty-one, be amended and reenacted to read as follows:

Section 19. *Suspension or Removal of Members.*—The
2 superintendent may suspend or remove from the service
3 any member of the department of public safety for any
4 of the following causes, to-wit: Refusing to obey the orders
5 of his superior officer, neglect of duty, drunkenness, im-
6 morality, inefficiency, abuse of his authority, interference
7 with the lawful right of any person, participation in politi-
8 cal primaries, conventions or elections, or any other
9 cause that may in the opinion of the superintendent be
10 necessary for the good of the service. The superintendent
11 shall act when notice of such causes shall be brought to
12 his attention or upon charges in writing filed by any one
13 and supported by proper affidavit. In the event the
14 superintendent shall fail to suspend or dismiss any such
15 officer or member after such matters have come to his
16 knowledge, or such charges and proof thereof have been
17 made and filed with him by any person or persons, an
18 appeal may be had to the board of commissioners created
19 for such purpose, and all of the original papers in such
20 cases shall be delivered by the superintendent to such
21 board, who shall decide such cases in the manner herein-
22 after provided.

23 Any person who shall by the superintendent be ap-
24 pointed to membership in said department pursuant to
25 authority of chapter sixty, acts of the Legislature of
26 West Virginia, regular session, one thousand nine hun-
27 dred forty-one, may at any time be discharged at the
28 will and pleasure of the superintendent and without the
29 assignment of cause.

CHAPTER 73

(House Bill No. 321—By Mr. Ballard)

AN ACT to amend and reenact section one, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the powers of the public service commission.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 2. Powers and Duties of Public Service Commission.

Section

1. Jurisdiction of commission.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Jurisdiction of Commission.*—The jurisdiction of the commission shall extend to all public utilities in this state, except vehicles operated upon streets and roads, and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipe line; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydro-electric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity, by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer system; toll bridges, wharves, ferries; and any other public service except vehicular service upon streets and roads.

CHAPTER 74

(Senate Bill No. 113—By Mr. Pelter)

AN ACT to authorize the state road commission of West Virginia to cooperate with the public roads administration of the United States in the acquisition, construction and maintenance of flight strips and of certain classes of highways in order to facilitate the war effort.

[Passed March 2, 1943; in effect from passage. Approved by the Governor.]

Section

1. State road commission authorized to cooperate with federal government in construction of flight strips and highways.
2. Flight strip; definition.
3. Construction and maintenance.
4. Acquiring of title.
5. Duration of act.

Be it enacted by the Legislature of West Virginia:

Section 1. *State Road Commission Authorized to Cooperate with Federal Government in Construction of Flight Strips and Highways.*—In order to facilitate the war effort, the state road commission of West Virginia is hereby authorized to cooperate with the public roads administration of the United States government in the making of surveys, plans, specifications and estimates for, and in the construction and maintenance of flight strips and of roads and bridges necessary to provide access to military and naval reservations, to defense industries and defense-industry sites, and to sources of raw material, and for the replacement of existing highways and highway connections closed to general public use at military and naval reservations and at defense-industry sites, whenever the entire cost of making such surveys, plans, specifications and estimates for, and the construction and maintenance cost of such flight strips, or roads and bridges, including the cost of any land necessary for such construction, is entirely paid for by the federal government.

Sec. 2. *Flight Strip; Definition.*—A flight strip is an area of land with clear approaches thereto, located at or

3 near a public highway, for use as an auxiliary landing
4 field for aircraft.

Sec. 3. *Construction and Maintenance.*—Notwithstanding
2 any other provision of law, the state road commission
3 may contract for the construction of any such flight strips,
4 or roads and bridges, in any manner approved by the com-
5 missioner of public roads, or may perform such con-
6 struction and maintenance work by force account if re-
7 quested to do so by the commissioner of public roads.

Sec. 4. *Acquiring of Title.*—The state road commission
2 may acquire by purchase, eminent domain, grant or dedi-
3 cation, title to any land or any interest in land, or any
4 rights, ways, or easements thereon or thereover which
5 is necessary for the purpose of constructing and main-
6 taining said flight strips or roads and bridges.

Sec. 5. *Duration of Act.*—This act shall remain in effect
2 during the emergency as declared by the President of the
3 United States on May twenty-seventh, one thousand nine
4 hundred forty-one, and for a period of six months
5 thereafter.

CHAPTER 75

(Senate Bill No. 59—By Mr. Eddy)

AN ACT authorizing the state road commission to release to the
federal government the state's claim for damages to roads
and highways caused by construction of the Tygart River
Reservoir, and permitting sale of adjacent land by state
agency.

[Passed March 6, 1943; in effect from passage. Approved by the Governor.]

Section

1. Road commission authorized to release claims for damages to roads
caused by construction of Tygart River Reservoir in considera-
tion of conveyance of lands by federal government to conserva-
tion commission; sale of lands.

Be it enacted by the Legislature of West Virginia:

Section 1. *Road Commission Authorized to Release Claims for Damages to Roads Caused by Construction of Tygart River Reservoir in Consideration of Conveyance of Lands by Federal Government to Conservation Commission; Sale of Lands.*—The state road commission is hereby authorized, in consideration of the conveyance by the federal government to the state conservation commission of approximately three thousand three hundred acres of land adjacent to the Tygart River Reservoir, to release all claims of the state of West Virginia for damage, of approximately thirty thousand dollars, to roads and highways caused by the construction of such reservoir: *Provided, however,* That the conservation commission, state road commission or any other commission, agent or person holding title to said land, is hereby given authority to sell and convey by proper deed of conveyance for a price to be agreed upon, to any former owner of said land or other person, any part thereof not to exceed in the aggregate one thousand acres.

CHAPTER 76

(House Bill No. 278—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section three, article one; sections six-a and twenty-three, article two; sections two, seven, nine and ten, article five; sections one, four, five, ten and eleven, article six; sections eight, nine, eleven, seventeen, twenty-one, twenty-two and twenty-five, article seven; sections four and eleven, article ten; to add section ten-a, section ten-b and section seventeen-a to article five; to add section twenty-one to article six; and to repeal section twelve, article five, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, second extraordinary ses-

sion, one thousand nine hundred thirty-six, as amended, relating to unemployment compensation.

[Passed March 1, 1943; in effect April 1, 1943. Approved by the Governor.]

Article

1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
5. Employer Coverage and Responsibility.
6. Employee Eligibility; Benefits.
7. Claim Procedure.
10. General Provisions.

Be it enacted by the Legislature of West Virginia:

That section three, article one; sections six-a and twenty-three, article two; sections two, seven, nine and ten, article five; sections one, four, five, ten and eleven, article six; sections eight, nine, eleven, seventeen, twenty-one, twenty-two and twenty-five, article seven, and sections four and eleven, article ten, be amended and reenacted; that section ten-a, section ten-b and section seventeen-a be added to article five; that section twenty-one be added to article six; and that section twelve, article five, be repealed, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-six, as amended, to read as follows:

Article 1. Department of Unemployment Compensation.

Section

3. Definitions.

Section 3. *Definitions.*—As used in this chapter, unless the context clearly requires otherwise:

3 “Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid.

6 “Annual payroll” means the total amount of wages for employment paid by an employer during one year.

8 “Average annual payroll” means the average of the annual payrolls of an employer for the last three years.

11 “Base period” means the twelve consecutive month period ending on the December thirty-first next preceding an individual's benefit year.

14 "Base period employer" means any employer who in
15 the base period for any benefit year paid wages to an
16 individual who filed claim for unemployment compen-
17 sation within such benefit year.

18 "Base period wages" means wages paid to an individual
19 during the base period by all his base period employers.

20 "Benefit unit" means the amount of benefit an eligible
21 individual will receive for each one-half shift of no work
22 available in excess of one-half normal shift expect-
23 tancy.

24 "Benefit year" with respect to an individual means
25 the twelve-month period beginning with April first
26 and ending with March thirty-first, which includes the
27 period for which claim for benefit is made by such in-
28 dividual.

29 "Benefits" means the money payable to an individual
30 with respect to his unemployment.

31 "Board" means board of review.

32 "Calendar quarter" means the period of three consecu-
33 tive calendar months ending on March thirty-one, June
34 thirty, September thirty, or December thirty-one, or the
35 equivalent thereof as the director may by regulation
36 prescribe.

37 "Director" means the unemployment compensation di-
38 rector.

39 "Employing unit" means an individual, or type of or-
40 ganization, including any partnership, association, trust,
41 estate, joint stock company, insurance company, cor-
42 poration (domestic or foreign), or the receiver, trus-
43 tee in bankruptcy, trustee or successor thereof, or the
44 legal representative of a deceased person, which has
45 on January first, one thousand nine hundred thirty-
46 five, or subsequent thereto, had in its employ one or
47 more individuals performing service within this state.

48 "Employer" means an employing unit which for some
49 portion of a day, not necessarily simultaneously, in each
50 of twenty different calendar weeks, which weeks need
51 not be consecutive, within either the current calendar
52 year or the preceding calendar year, has had in em-
53 ployment eight or more individuals irrespective of

54 whether the same individuals were or were not em-
55 ployed on each of such days.

56 "Employment", subject to the other provisions of this
57 subsection, means:

58 (1) Service, including service in interstate commerce,
59 performed for wages or under any contract of hire, writ-
60 ten or oral, express or implied.

61 (2) The term "employment" shall include an indi-
62 vidual's entire service, performed within or both within
63 and without this state, if: (a) The service is localized in
64 this state; or, (b) the service is not localized in any state
65 but some of the service is performed in this state and
66 (i) the base of operations, or, if there is no base of
67 operations, then the place from which such service is
68 directed or controlled, is in this state; or, (ii) the
69 base of operations or place from which such service is
70 directed or controlled is not in any state in which
71 some part of the service is performed but the indi-
72 vidual's residence is in this state.

73 (3) Service not covered under paragraph (2) of
74 this subsection and performed entirely without this
75 state, with respect to no part of which contributions
76 are required and paid under an unemployment com-
77 pensation law of any other state or of the federal
78 government, shall be deemed to be employment subject
79 to this act if the individual performing such services is
80 a resident of this state and the director approves the
81 election of the employing unit for whom such services
82 are performed that the entire service of such individual
83 shall be deemed to be employment subject to this
84 act.

85 (4) Service shall be deemed to be localized within a
86 state, if: (a) The service is performed entirely within
87 such state; or, (b) the service is performed both within
88 and without such state, but the service performed
89 without such state is incidental to the individual's serv-
90 ice within the state. For example, is temporary or tran-
91 sitory in nature or consists of isolated transac-
92 tions.

93 (5) Services performed by an individual for wages
94 shall be deemed to be employment subject to this act

95 unless and until it is shown to the satisfaction of the
96 director that: (a) Such individual has been and will
97 continue to be free from control or direction over the
98 performance of such services, both under his con-
99 tract of service and in fact; and (b) such service is
100 either outside the usual course of the business for
101 which such service is performed or that such serv-
102 ice is performed outside of all the places of business
103 of the enterprise for which such service is performed;
104 and (c) such individual is customarily engaged in an
105 independently established trade, occupation, profession,
106 or business.

107 The term "employment" shall not include:

108 (1) Services performed in the employ of this state
109 or any political subdivision thereof, or any instrumen-
110 tality of this state or its subdivisions.

111 (2) Service performed directly in the employ of an-
112 other state, or its political subdivisions.

113 (3) Service performed in the employ of the United
114 States or an instrumentality of the United States ex-
115 empt under the Constitution of the United States from
116 the payments imposed by this law, except that to the
117 extent that the Congress of the United States shall
118 permit states to require any instrumentalities of the
119 United States to make payments into an unemployment
120 fund under a state unemployment compensation law, all
121 of the provisions of this law shall be applicable to such
122 instrumentalities, and to service performed for such in-
123 strumentalities, in the same manner, to the same extent
124 and on the same terms as to all other employers, em-
125 ploying units, individuals, and services; provided, that
126 if this state shall not be certified for any year by the
127 Social Security Board under section one thousand six
128 hundred three (c) of the Federal Internal Revenue
129 Code, the payments required of such instrumentalities
130 with respect to such year shall be refunded by the
131 director from the fund in the same manner and within
132 the same period as is provided in section nineteen of
133 article five of this law with respect to payments er-
134 roneously collected.

135 (4) Service performed after June thirty, one thou-

136 sand nine hundred thirty-nine, with respect to which
137 unemployment compensation is payable under the Rail-
138 road Unemployment Insurance Act (fifty-two Stat. one
139 thousand ninety-four), and service with respect to which
140 unemployment benefits are payable under an unem-
141 ployment compensation system for maritime employees
142 established by an act of Congress. The director may
143 enter into agreements with the proper agency estab-
144 lished under such an act of Congress to provide recipro-
145 cal treatment to individuals who, after acquiring po-
146 tential rights to unemployment compensation under an
147 act of Congress, or who have, after acquiring potential
148 rights to unemployment compensation under an act of
149 Congress, acquired rights to benefits under this chap-
150 ter. Such agreements shall become effective ten days
151 after such publication as complies with the general rules
152 of the department.

153 (5) Agricultural labor.

154 (6) Domestic service in a private home.

155 (7) Service performed as an officer or member of a
156 crew of a vessel on the navigable waters of the United
157 States.

158 (8) Service performed by an individual in the employ
159 of his son, daughter, or spouse.

160 (9) Service performed by a child under the age of
161 twenty-one years in the employ of his father or
162 mother.

163 (10) Service performed in the employ of an employ-
164 ing unit organized and operated exclusively for re-
165 ligious, charitable, scientific, literary, or educational pur-
166 poses, or for prevention of cruelty to children or animals,
167 no part of the net earnings of which inure to the benefit
168 of any private shareholder or individual.

169 "Employment office" means a free employment of-
170 fice or branch thereof, operated by this state, or any
171 free public employment office maintained as a part of
172 a state-controlled system of public employment offices
173 in any other state.

174 "Fund" means the unemployment compensation fund
175 established by this chapter.

176 "Normal shift expectancy" means the customary

177 number of shifts or their equivalent that constitute
178 full time operation of the business in which the claimant
179 is regularly employed.

180 "Normal shift" means the customary number of
181 hours constituting a full shift at the operation of the
182 claimant's regular employer.

183 "Payments" means the money required to be paid
184 into the state unemployment compensation fund as pro-
185 vided by article five of this chapter.

186 "State" includes, in addition to the states of the
187 United States, Alaska, Hawaii, and the District of Co-
188 lumbia.

189 "Total and partial unemployment":

190 (1) An individual shall be deemed "totally unem-
191 ployed" in any week in which such individual is sepa-
192 rated from employment for an employing unit and dur-
193 ing which he performs no services and with respect to
194 which no wages are payable to him.

195 (2) An individual shall be deemed "partially unem-
196 ployed" in any pay period in which the total number of
197 normal shifts available are less than one-half the nor-
198 mal shift expectancy in such period. Odd job and/or
199 subsidiary work is deemed partial unemployment in any
200 week in which such service is performed and wages are
201 paid or payable for more than eight hours. In cases
202 involving partial unemployment as a result of odd job
203 and/or subsidiary work the pay period, normal shift,
204 normal shift expectancy and period for filing claims
205 will be such as the director may by regulation pre-
206 scribe.

207 (3) An individual's week of unemployment shall be
208 deemed to commence only after his registration at an
209 employment office, except as the director may by regula-
210 tion otherwise prescribe.

211 "Wages" means all remuneration for personal service,
212 including commissions and bonuses and the cash value of
213 all remuneration in any medium other than cash; pro-
214 vided that the term "wages" shall not include:

215 (1) That part of the remuneration which, after re-
216 muneration equal to three thousand dollars has been
217 paid to an individual by an employer with respect to

218 employment during any calendar year beginning with
219 the calendar year one thousand nine hundred forty, is
220 paid to such individual by such employer with re-
221 spect to employment during such calendar year.

222 (2) The amount of any payment made to, or on be-
223 half of, an individual in its employ (without deduction
224 from the remuneration of the individual in its employ),
225 under a plan or system established by an employer
226 which makes provision for individuals in its employ
227 generally or for a class or classes of such individuals
228 (including any amount paid by an employer for in-
229 surance or annuities, or into a fund, to provide for any
230 such payment), on account of (A) retirement, or (B)
231 sickness or accident disability, or (C) medical and hos-
232 pitalization expenses in connection with sickness or
233 accident disability, or (D) death: *Provided*, That the
234 individual in its employ (i) has not the option to
235 receive, instead of provision for such death benefit,
236 any part of such payment or, if such death benefit is
237 insured, any part of the premiums (or contributions
238 to premiums) paid by his employer, and (ii) has
239 not the right, under the provisions of the plan or sys-
240 tem or policy of insurance providing for such death
241 benefit, to assign such benefit, or to receive such con-
242 sideration in lieu of such benefit either upon his with-
243 drawal from the plan or system providing for such
244 benefit or upon termination of such plan or system or
245 policy or of insurance of his services with such em-
246 ployer.

247 (3) The payment by an employer (without deduc-
248 tion from the remuneration of the individual in its
249 employ) of the tax imposed upon an individual in its
250 employ under section one thousand four hundred of the
251 Federal Internal Revenue Code; or

252 (4) Payments, not required under any contract of
253 hire, made to an individual with respect to his period
254 of training or service in the armed forces of the United
255 States by any employer by which such individual was
256 formerly employed.

257 Gratuities customarily received by an individual in
258 the course of his employment from persons other than

259 his employing unit shall be treated as wages paid by
260 his employing unit, if accounted for and reported to
261 such employing unit.

262 The reasonable cash value of remuneration in any
263 medium other than cash shall be estimated and de-
264 termined in accordance with rules prescribed by the
265 director.

266 "Week" means a calendar week, ending at midnight
267 Saturday, or the equivalent thereof, as determined in
268 accordance with the regulations prescribed by the di-
269 rector.

270 "Weekly benefit rate" means the maximum amount of
271 benefit an eligible individual will receive for one week
272 of total unemployment.

273 "Year" means a calendar year, or the equivalent thereof,
274 as determined by the director.

Article 2. The Director of Unemployment Compensation.

Section

- 6-a. Reciprocal agreements.
- 23. Publication.

2 Section 6-a. *Reciprocal Agreements.*—The director may
3 enter into reciprocal arrangements with appropriate and
4 duly authorized agencies of other states or the federal
5 government, or both, whereby:

6 (1) Services performed by an individual for a single
7 employing unit for which services are customarily per-
8 formed by such individual in more than one state shall
9 be deemed to be services performed entirely within any
10 one of the states (i) in which any part of such indi-
11 vidual's service is performed or (ii) in which such in-
12 dividual has his residence or (iii) in which the employ-
13 ing unit maintains a place of business, provided there is
14 in effect, as to such services, an election by an employing
15 unit, with the acquiescence of such individual, and ap-
16 proved by the agency charged with the administration
17 of such state's unemployment compensation law, pursu-
18 ant to which services performed by such individual for
19 such employing unit are deemed to be performed entirely
20 within such state;

21 (2) Potential rights to benefits accumulated under the
unemployment compensation laws of one or more states

22 or under one or more such laws of the federal govern-
23 ment, or both, may constitute the basis for the payment
24 of benefits through a single appropriate agency under
25 terms which the director finds will be fair and reasonable
26 as to all affected interests and will not result in any sub-
27 stantial loss to the fund;

28 (3) Wages or services, upon the basis of which an in-
29 dividual may become entitled to benefits under an un-
30 employment compensation law of another state or of the
31 federal government, shall be deemed to be wages for
32 insured work for the purpose of determining his rights
33 to benefits under this chapter, and wages for insured
34 work, on the basis of which an individual may become
35 entitled to benefits under this chapter and shall be
36 deemed to be wages or services on the basis of which
37 unemployment compensation under such law of another
38 state or of the federal government is payable, but no
39 such arrangement shall be entered into unless it contains
40 provisions for reimbursements to the fund for such of
41 the benefits paid under this chapter upon the basis of
42 such wages or services, and provisions for reimburse-
43 ments from the fund for such of the compensation paid
44 under such other law upon the basis of wages for in-
45 sured work, as the director finds will be fair and reason-
46 able as to all affected interests; and

47 (4) Contributions due under this chapter with respect
48 to wages for insured work shall for the purposes of this
49 chapter be deemed to have been paid to the fund as of
50 the date payment was made as contributions therefor
51 under another state or federal unemployment compensa-
52 tion law, but no such arrangement shall be entered into
53 unless it contains provisions for such reimbursement to
54 the fund of such contributions as the director finds will
55 be fair and reasonable as to all affected interests.

56 (b) Reimbursements paid from the fund pursuant to
57 paragraph (three) of subsection (a) of this section shall
58 be deemed to be benefits for the purpose of this chapter.
59 The director is authorized to make to other state or fed-
60 eral agencies and to receive from such other state or fed-
61 eral agencies, reimbursements from or to the fund, in ac-

62 cordance with arrangements entered into pursuant to sub-
63 section (a) of this section.

64 (c) To the extent permissible under the laws and Con-
65 stitution of the United States, the director is authorized to
66 enter into or cooperate in arrangements whereby facili-
67 ties and services provided under this chapter and facilities
68 and services provided under the unemployment compen-
69 sation law of any foreign government, may be utilized for
70 the taking of claims and the payment of benefits under
71 the employment security law of this state or under a
72 similar law of such government.

Sec. 23. *Publication.*—The director shall print for public
2 distribution:

3 (1) The text of this chapter.

4 (2) The regulations and general rules of the division.

5 (3) Such other material as the director deems relevant
6 and suitable for the more effective administration of the
7 chapter, including, for distribution to employers and or-
8 ganizations and associations representative of employer
9 and employee interests, quarterly statements of the con-
10 dition of the unemployment compensation trust fund and
11 any other information relating to the administration
12 thereof which the director may deem to be pertinent and
13 proper.

Article 5. Employer Coverage and Responsibility.

Section

2. Duration.

7. Separate accounts.

9. Experience ratings; fund stabilization.

10. Experience ratings; decreased rates.

10-a. Suspension of decreased rates.

10-b. Transfer of business.

12. Auxiliary rates.

17-a. Summary assessments.

Section 2. *Duration.*—Except as otherwise provided in
2 section three of this article, an employing unit shall cease
3 to be an employer subject to this chapter only as of the
4 first day of any calendar year and only if it files with the
5 director not later than January thirty-first of such year, a
6 written application for termination of coverage, as of such
7 first day of January, and the director finds that there were

8 no twenty different days, each day being in a different
9 calendar week within the preceding calendar year, within
10 which such employing unit had eight or more individuals
11 in employment subject to this chapter: *Provided, however,*
12 That the director may for good cause extend the time for
13 filing application for termination of coverage, effective as
14 of the first day of the next succeeding quarter after the
15 application is approved.

Sec. 7. *Separate Accounts.*—(1) The director shall
2 maintain a separate account for each employer, and shall
3 credit his account with all contributions heretofore and
4 hereafter paid by him. Nothing in this act shall be con-
5 strued to grant any employer or individual in his service
6 prior claims or rights to the amounts paid by him into
7 the fund, either on his own behalf or on behalf of such
8 individuals.

9 (2) Benefits paid to an eligible individual shall be
10 charged against the accounts of his base period employers.
11 The amount of benefits so chargeable against each base
12 period employer's account shall bear the same ratio to the
13 total benefits paid to an individual as the base period
14 wages paid to such individual by such employer bear to
15 the total amount of base period wages paid to such
16 individual by all his base period employers.

17 (3) The director shall, for the year one thousand nine
18 hundred forty-one and for each calendar year thereafter,
19 classify employers in accordance with their actual expe-
20 rience in the payment of contributions on their own be-
21 half and with respect to benefits charged against their
22 accounts, with a view of fixing such contribution rates as
23 will reflect such experience. For the purpose of fixing
24 such contribution rates for each calendar year the books
25 of the department shall be closed on January thirty-one
26 of such year, and any contributions thereafter paid with
27 respect to wages paid for employment during preceding
28 calendar years, as well as benefits thereafter paid with re-
29 spect to compensable weeks ending on or before Decem-
30 ber thirty-one of the preceding year, shall not be taken
31 into account until the time for fixing contribution rates
32 for the succeeding calendar year.

Sec. 9. *Experience Ratings; Fund Stabilization.*—An

2 employer's payment-rate shall be reduced only as of Janu-
3 ary one of a calendar year and shall not be reduced below
4 two and seven-tenths per cent:

5 (1) Prior to January one, one thousand nine hundred
6 forty-one.

7 (2) Thereafter, unless the total assets of the fund, ex-
8 cluding payments payable at the beginning of the year
9 exceed the total benefits paid from the fund within the
10 last preceding year.

Sec. 10. *Experience Ratings; Decreased Rates.*—On and

2 after January one, one thousand nine hundred forty-
3 three, after the requirements of section nine have been
4 complied with, an employer's payment shall remain two
5 and seven-tenths per cent (2.7%), until: (1) There has
6 elapsed three consecutive years throughout which an in-
7 dividual in his employ could have received benefits if
8 unemployed and eligible.

9 (2) His payments credited to his account for all past
10 years exceed the benefits charged to his account by an
11 amount equal to at least five and one-half per cent (5.5%)
12 of his average annual payroll, in which case his rate shall
13 be two and four-tenths per cent (2.4%).

14 (3) His payments credited to his account for all past
15 years exceed the benefits charged to his account by an
16 amount equal to at least six and one-half per cent (6.5%)
17 of his average annual payroll, in which case his rate shall
18 be two and one-tenth per cent (2.1%).

19 (4) His payments credited to his account for all past
20 years exceed the benefits charged to his account by an
21 amount equal to at least seven and one-half per cent
22 (7.5%) of his average annual payroll, in which case his
23 rate shall be one and eight-tenths per cent (1.8%).

24 (5) His payments credited to his account for all past
25 years exceed the benefits charged to his account by an
26 amount equal to at least eight and one-half per cent (8.5%)
27 of his average annual payroll, in which case his rate shall
28 be one and four-tenths per cent (1.4%).

29 (6) His payments credited to his account for all past
30 years exceed the benefits charged to his account by an

31 amount equal to at least ten per cent (10%) of his average
32 annual payroll, in which case his rate shall be nine-
33 tenths of one per cent (0.9%).

34 The director shall determine an employer's compliance
35 with these requirements.

Sec. 10-a. *Suspension of Decreased Rates.*—(1) If at any
2 time or times the unemployment compensation fund, in-
3 cluding the trust fund, clearing account, and benefit ac-
4 count, and excluding therefrom the amount required to
5 pay the benefit liability then accrued and unpaid, shall
6 fall below the sum of twenty-five million dollars, the di-
7 rector shall suspend the decreased rates as provided in
8 the chapter, and all contributions of employers which are
9 due and payable upon the next due date following such
10 suspension shall be paid at the rate of two and seven-
11 tenths per cent.

12 (2) As of January first next following the calendar year
13 in which the unemployment compensation fund, including
14 the trust fund, clearing account, and benefit account,
15 and excluding therefrom the amount required to pay the
16 benefit liability then accrued and unpaid, reaches the sum
17 of thirty million dollars, the director shall supersede such
18 suspension. New rates shall thereupon be computed as
19 provided in this chapter.

Sec. 10-b. *Transfer of Business.*—If a subject employer
2 shall transfer his entire organization, trade or business,
3 or substantially all the assets thereof, to another em-
4 ployer, the director shall combine the contribution records
5 and the benefit experience records of the transferring and
6 acquiring employers. The acquiring employer's contribu-
7 tion rate for the remainder of the calendar year shall not
8 be affected by the transfer but such rate shall apply to
9 the whole of his business, including the portion acquired
10 by the transfer, through the following December thirty-
11 first. If a subject employer shall make such transfer to
12 an employing unit which is not an employer on the date
13 of the transfer, such subject employer's rate shall con-
14 tinue as the rate of the acquiring employing unit until
15 the next computation date.

2 Sec. 12. *Auxiliary Rates.*—This section is hereby re-
3 pealed.

4 Sec. 17-a. *Summary Assessments.*—(1) If an employer
5 fails to file reports for the purpose of determining the
6 amount of contribution in accordance with the regulations
7 of the director, or files manifestly incorrect or insufficient
8 reports, the director may assess the contribution and any
9 interest due on the basis of the information submitted by
10 the employer or on the basis of an estimate as to the
11 amount due, and shall give written notice of such assess-
12 ment to such employer: *Provided*, That such assessment
13 shall be subject to redetermination by the director upon
14 the filing by the employer of correct and sufficient reports
15 within thirty days after notice of such assessment shall
16 be given to him.

17 (2) If the director determines that the collection of any
18 contribution or interest under the provisions of this chap-
19 ter are or may be jeopardized by delay, he may, whether
20 or not the time prescribed by this chapter or any regula-
21 tions issued pursuant thereto for making reports and pay-
22 ing contributions has expired, immediately assess such
23 contribution, together with interest, then due or estimated
24 by him to be due, and shall give written notice of such
25 assessment to the employer: *Provided*, That such assess-
26 ment, unless based on information submitted by the em-
27 ployer, shall be subject to redetermination upon the same
28 condition and in the same manner as provided in sub-
29 section (1) hereof.

30 (3) Any such assessment may be enforced in the man-
31 ner provided in section sixteen hereof.

Article 6. Employee Eligibility; Benefits.

Section

1. Eligibility qualifications.
4. Disqualifications for benefits.
5. Suitable work.
10. Benefit rate; total unemployment.
11. Rate of benefit; partial unemployment.
21. Persons in military service.

2 Section 1. *Eligibility Qualifications.*—An unemployed
3 individual shall be eligible to receive benefits only if the
4 director finds that:

4 (1) He has registered for work at and thereafter con-
5 tinues to report at an employment office in accordance
6 with the regulations of the director.

7 (2) He has made a claim for benefits in accordance
8 with the provisions of article seven of this chapter.

9 (3) He is able to work and is available for full time
10 work for which he is fitted by prior training or experi-
11 ence.

12 (4) He has been totally unemployed during his benefit
13 year for a waiting period of one week prior to the week
14 for which he claims benefits for total unemployment.

15 (5) He has within his base period earned wages for
16 employment equal to not less than two hundred fifty
17 dollars.

Sec. 4. *Disqualifications for Benefits.*—Upon the deter-
2 mination of the facts by the director, an individual shall
3 be disqualified for benefits:

4 (1) For the week in which he left work voluntarily
5 without good cause involving fault on the part of the
6 employer and the six weeks immediately following such
7 week. Such disqualification shall carry a reduction in
8 the maximum benefit amount equal to six times the in-
9 dividual's weekly benefit rate.

10 (2) For the week in which he was discharged for mis-
11 conduct and the six weeks immediately following such
12 week. Such disqualification shall carry a reduction in the
13 maximum benefit amount equal to six times the indi-
14 vidual's weekly benefit rate.

15 (3) For the week in which he failed, without good
16 cause, to apply for available suitable work, accept suitable
17 work when offered, or return to his customary self-em-
18 ployment when directed to do so by the director, and for
19 the four weeks which immediately follow and for such
20 additional period as any offer of suitable work shall con-
21 tinue open for his acceptance, and his maximum benefit
22 amount shall be reduced by an amount equal to his
23 weekly benefit rate times the number of weeks of dis-
24 qualification.

25 (4) For a week in which his total or partial unemploy-
26 ment is due to a stoppage of work which exists because

27 of a labor dispute at the factory, establishment, or other
28 premises at which he was last employed, unless the di-
29 rector is satisfied that he was not (one) participating,
30 financing, or directly interested in such dispute, and (two)
31 did not belong to a grade or class of workers who were
32 participating, financing, or directly interested in the labor
33 dispute which resulted in the stoppage of work. No dis-
34 qualification under this subsection shall be imposed if the
35 employees are required to accept wages, hours or condi-
36 tions of employment less favorable than those prevailing
37 for similar work in the locality, or if employees are de-
38 nied the right of collective bargaining under generally
39 prevailing conditions, or if an employer shuts down his
40 plant or operation or dismisses his employees in order to
41 force wage reduction, changes in hours or working con-
42 ditions.

43 (5) For a week with respect to which he is receiving
44 or has received:

45 (a) Wages in lieu of notice;

46 (b) Compensation for temporary partial disability un-
47 der the workmen's compensation law of any state or un-
48 der a similar law of the United States;

49 (c) Remuneration in the form of a primary insurance
50 benefit under title two of the social security act, as
51 amended, or similar payments under any act of Congress;

52 (d) Unemployment compensation benefits under the
53 laws of the United States or any other state.

54 (6) For the week in which an individual is not em-
55 ployed because of pregnancy, or has voluntarily quit em-
56 ployment to marry or to perform any marital, parental,
57 or family duty, or to attend to his or her personal business
58 or affairs, and until the individual returns to covered em-
59 ployment and has been employed in covered employment
60 at least thirty working days.

61 (7) For each week in which an individual is unem-
62 ployed because, having voluntarily left employment to
63 attend a school, college, university, or other educational
64 institution, he is attending such school, college, university,
65 or other educational institution, or is awaiting entrance
66 thereto or is awaiting the starting of a new term or ses-
67 sion thereof.

Sec. 5. *Suitable Work*.—In determining whether work
2 is suitable for an individual, the director shall consider:

3 (1) The degree of risk involved to the individual's
4 health, safety, and morals.

5 (2) The individual's physical fitness and prior train-
6 ing.

7 (3) His experience and prior earnings.

8 (4) His length of unemployment.

9 (5) His prospects of securing local work in his cus-
10 tomary occupation.

11 (6) The distance of the available work from his resi-
12 dence: *Provided, however,* That the distance from his new
13 residence shall not be considered in determining suitable
14 work if such distance from available work was created
15 as the result of the individual voluntarily changing his
16 residence to a locality other than that locality in which
17 he resided at the time he voluntarily quit his last employ-
18 ment without good cause involving fault on the part of
19 the employer.

Sec. 10. *Benefit Rate; Total Unemployment*.—Each
2 eligible individual who is totally unemployed in any week
3 shall be paid benefits with respect to that week at the
4 weekly rate appearing in column (C) in table A in this
5 paragraph, on the line on which in column (A) there is in-
6 dicated the employee's wage class, except as otherwise pro-
7 vided under the term "total and partial unemployment"
8 in section three, article one of this chapter. The em-
9 ployee's wage class shall be determined by his base period
10 wages as shown in column (B) in table A. The right of an
11 employee to receive benefits shall not be prejudiced nor
12 the amount thereof be diminished by reason of failure by
13 an employer to pay either the wages earned by the em-
14 ployee or the contribution due on such wages.

TABLE A

Wage Class	Wages in Base Period	Weekly Benefit Rate	Maximum Benefit in Benefit Year for Total and/or Partial Unem- ployment
(Column A)	(Column B)	(Column C)	(Column D)
	Under—\$250.00	(Ineligible)	Amount
1	\$ 250.00— 399.99	\$ 7.00	\$112.00
2	400.00— 499.99	8.50	136.00
3	500.00— 599.99	9.50	152.00
4	600.00— 699.99	11.00	176.00
5	700.00— 749.99	11.50	184.00
6	750.00— 799.99	12.00	192.00
7	800.00— 849.99	12.50	200.00
8	850.00— 899.99	13.00	208.00
9	900.00— 949.99	14.00	224.00
10	950.00— 999.99	14.50	232.00
11	1000.00—1049.99	15.00	240.00
12	1050.00—1099.99	15.50	248.00
13	1100.00—1149.99	16.00	256.00
14	1150.00—1199.99	17.00	272.00
15	1200.00—1249.99	17.50	280.00
16	1250.00 and over	18.00	288.00

Sec. 11. *Rate of Benefit; Partial Unemployment.*—An
 2 eligible individual who is partially unemployed in any
 3 pay period shall, upon claim therefor filed within such
 4 time and in such manner as the director may by regula-
 5 tion prescribe, be paid benefits for such partial unemploy-
 6 ment in an amount for such pay period in accordance with
 7 his wage class and the number of normal shifts or their
 8 equivalent, during the pay period, that no work was avail-
 9 able as shown in table B in this paragraph hereinafter
 10 contained, less any benefits paid or payable and any
 11 waiting period credit allowed to such individual for total
 12 unemployment in such pay period. Such partial benefits
 13 shall be paid without regard to the current employment
 14 status of such individual and shall be paid without regard
 15 to the provisions of subsections one, three and four of sec-
 16 tion one of this article.

TABLE B

If the total work available during a pay period is less than one-half of the normal shift expectancy during such pay period, the claimant is entitled to receive as partial benefit for the pay period the amount appearing opposite his wage class in the column headed by the number representing the difference between normal shift expectancy and double the number of full shifts and fractions thereof that work was available for the claimant during such pay period. If the number representing such difference is greater than twelve, the amount of benefit payable will be the amount obtained by multiplying such number by the benefit unit appearing on the line opposite the claimant's wage class.

WAGE CLASS	WAGES IN BASE PERIOD	BENEFIT UNIT	AMOUNT OF BENEFITS PAYABLE											
COLUMN A	COLUMN B	COLUMN C	1	2	3	4	5	6	7	8	9	10	11	12
1 \$ 250.....	\$ 399.99	\$1.40	\$1.40	\$2.80	\$4.20	\$5.60	\$7.00	\$8.40	\$9.80	\$11.20	\$12.60	\$14.00	\$15.40	\$16.80
2 400.....	499.99	1.70	1.70	3.40	5.10	6.80	8.50	10.20	11.90	13.60	15.30	17.00	18.70	20.40
3 500.....	599.99	1.90	1.90	3.80	5.70	7.60	9.50	11.40	13.30	15.20	17.10	19.00	20.90	22.80
4 600.....	699.99	2.20	2.20	4.40	6.60	8.80	11.00	13.20	15.40	17.60	19.80	22.00	24.20	26.40
5 700.....	749.99	2.30	2.30	4.60	6.90	9.20	11.50	13.80	16.10	18.40	20.70	23.00	25.30	27.60
6 750.....	799.99	2.40	2.40	4.80	7.20	9.60	12.00	14.40	16.80	19.20	21.60	24.00	26.40	28.80
7 800.....	849.99	2.50	2.50	5.00	7.50	10.00	12.50	15.00	17.50	20.00	22.50	25.00	27.50	30.00
8 850.....	899.99	2.60	2.60	5.20	7.80	10.40	13.00	15.60	18.20	20.80	23.40	26.00	28.60	31.20
9 900.....	949.99	2.80	2.80	5.60	8.40	11.20	14.00	16.80	19.60	22.40	25.20	28.00	30.80	33.60
10 950.....	999.99	2.90	2.90	5.80	8.70	11.60	14.50	17.40	20.30	23.20	26.10	29.00	31.90	34.80
11 1000.....	1049.99	3.00	3.00	6.00	9.00	12.00	15.00	18.00	21.00	24.00	27.00	30.00	33.00	36.00
12 1050.....	1099.99	3.10	3.10	6.20	9.30	12.40	15.50	18.60	21.70	24.80	27.90	31.00	34.10	37.20
13 1100.....	1149.99	3.20	3.20	6.40	9.60	12.80	16.00	19.20	22.40	25.60	28.80	32.00	35.20	38.40
14 1150.....	1199.99	3.40	3.40	6.80	10.20	13.60	17.00	20.40	23.80	27.20	30.60	34.00	37.40	40.80
15 1200.....	1249.99	3.50	3.50	7.00	10.50	14.00	17.50	21.00	24.50	28.00	31.50	35.00	38.50	42.00
16 1250 and over.....		3.60	3.60	7.20	10.80	14.40	18.00	21.60	25.20	28.80	32.40	36.00	39.60	43.20

Sec. 21. *Persons in Military Service.*—Benefits shall be payable, in accordance with general rules to be prescribed by the director, to otherwise eligible individuals who have entered the armed forces of the United States of America since June thirty, one thousand nine hundred forty, on the basis of their insured work prior to such entrance. Such rules with respect to such individuals shall supersede any inconsistent provisions of this chapter, but so far as practicable shall secure results reasonably similar to those provided in the analogous provisions of this chapter: *Provided, however,* (1) That such individual has been discharged from the armed forces and files a claim for benefits pursuant hereto prior to April first, one thousand nine hundred forty-five; (2) that "military service" as used herein means service in the land, air, and naval forces of the United States, or any other service in the armed forces of the United States under any act of congress; and (3) that benefit rights under this section shall not be payable until after the benefit rights have been utilized under any act of Congress providing a national system in regard to payments to unemployed veterans.

Article 7. Claim Procedure.

Section

- 8. Appeal from deputy's decision.
- 9. Finality of examiner's decision.
- 11. Benefits pending appeal.
- 17. Finality of board's decision.
- 21. Findings of fact.
- 22. Judicial review.
- 25. Service upon board.

Section 8. *Appeal from Deputy's Decision.*—A claimant, last employer or any base period employer of a claimant, or other interested party, may file an appeal from the decision of the deputy within fifteen calendar days after notice of the decision has been delivered or mailed by registered mail to the claimant and last employer as provided in section four of this article. The period within which an appeal from the decision of the deputy may be filed shall be stated in such notice. The decision of the deputy shall be final and benefits shall be paid or denied

11 in accordance therewith unless an appeal is filed within
12 such time.

13 Upon appeal from the determination of a deputy, an
14 individual shall be entitled to a fair hearing and reason-
15 able opportunity to be heard before an appeal tribunal
16 as provided in section seven of this article.

17 Within ten days after receipt by the board of notice of
18 appeal from the decision of a deputy, the board shall fix
19 the time and place for hearing such appeal.

20 Upon consideration of all evidence the appeal tribunal
21 shall make a decision, and shall notify the claimant and
22 last employer of its findings and decision.

Sec. 9. *Finality of Examiner's Decision.*—A claimant,
2 last employer or any base period employer of a claimant,
3 or other interested party may file an appeal to the board
4 from the decision of an appeal tribunal within fifteen cal-
5 endar days after notice of the decision has been delivered
6 or mailed to the claimant and last employer as provided
7 in section eight of this article. The director shall of neces-
8 sity be deemed an interested party. The decision of the
9 appeal tribunal shall be final and benefits shall be paid
10 or denied in accordance therewith unless an appeal is
11 filed within such time.

Sec. 11. *Benefits Pending Appeal.*—If an appeal is
2 filed, benefits for the period prior to final determination of
3 the board shall be paid only after such determination.
4 If benefits are allowed by the decision of the board on
5 appeal from the decision of the appeal tribunal the bene-
6 fits shall be paid whether such decision reverses or affirms
7 the decision of the appeal tribunal and regardless of any
8 further appeal; but if the decision of the board is reversed
9 on appeal an employer's account shall not be charged with
10 the benefits so paid.

Sec. 17. *Finality of Board's Decision.*—The decision of
2 the board shall be final and benefits shall be paid or de-
3 nied in accordance therewith, unless a claimant, last em-
4 ployer or any base period employer of a claimant, or
5 other interested party appeals to a court within twenty
6 days after mailing of notification of the board's decision.

2 Sec. 21. *Findings of Fact.*—In a judicial proceeding to
3 review a decision of the board, the findings of fact of the
4 board shall have like weight to that accorded to the find-
5 ings of fact of a trial chancellor or judge in equity pro-
6 cedure.

2 Sec. 22. *Judicial Review.*—Within twenty days after a
3 decision of the board has become final, any party ag-
4 grieved may secure judicial review of the decision by
5 commencing an action against the board in the circuit
6 court of Kanawha county. Parties to the proceedings be-
7 fore the board shall be made defendants. The director
8 shall be a necessary party to such judicial review.

2 Sec. 25. *Service upon Board.*—Service in such action
3 shall be upon the chairman of the board or such person
4 as he may designate, and service upon him shall be treated
5 as completed service upon all parties to the original dis-
6 pute. With such service upon the board there shall be
7 included a copy of the petition for review and as many
8 additional copies as there are defendants, including the
9 director. The chairman of the board or such person as
10 he may designate shall immediately upon receipt of serv-
11 ice forward a copy of such service, including a copy of
12 the petition for review, by registered mail to each de-
13 fendant, including the director.

Article 10. General Provisions.

Section

- 4. Records and reports; miscellaneous.
- 11. Information.

2 Section 4. *Records and Reports; Miscellaneous.*—(1)
3 An employing unit shall keep true and accurate work
4 records containing such information as the director may
5 prescribe. The record shall be open to inspection and
6 be subject to being copied by the director or his author-
7 ized representatives at any reasonable time.
8 (2) The director may cause to be made such summaries,
9 compilations, photographs, duplication, or reproduction
10 of any records, reports, or transcripts thereof as he may
11 deem advisable for the effective and economical preser-
12 vation of information contained therein, and such sum-

12 maries, compilations, photographs, duplication, or repro-
13 ductions duly authenticated, shall be admissible in any
14 proceeding under this chapter if the original record or rec-
15 ords would have been admissible therein and are un-
16 available.

17 (3) The director, with the concurrence of the majority
18 of the Advisory Council, may provide regulations for the
19 destruction or disposition, after reasonable periods, of any
20 records, reports, transcripts, or reproductions thereof, or
21 other papers in his custody, the preservation of which is
22 considered no longer necessary for the establishment of
23 contribution liability or benefit rights, or for any purpose
24 necessary to the proper administration of this chapter,
25 including any audit required.

· Sec. 11. *Information.*—The director may require an em-
2 ploying unit to provide sworn or unsworn reports con-
3 cerning:

4 (1) The number of individuals in its employ.

5 (2) Individually their hours of labor.

6 (3) Individually the rate and amount of wages.

7 (4) Such other information as is reasonably connected
8 with the administration of this chapter.

9 Information thus obtained shall not be published or be
10 open to public inspection so as to reveal the identity of
11 the employing unit. A claimant of benefit, however, shall
12 be supplied with information from such records to the
13 extent necessary for the proper presentation of his claim.

14 A person who violates the provisions of this section
15 shall be guilty of a misdemeanor, and upon conviction
16 shall be fined not less than twenty dollars nor more than
17 two hundred dollars, or imprisoned not longer than ninety
18 days, or both.

19 No action for slander or libel, either criminal or civil,
20 shall be predicated upon information furnished by any
21 employer or any employee to the director in connection
22 with the administration of any of the provisions of this
23 chapter.

CHAPTER 77

(House Bill No. 99—By Mr. Brand)

AN ACT to amend and reenact section seven, article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by section seven, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to violations of the liquor control act.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 6. Miscellaneous Provisions.

Section

7. Specific acts forbidden; form of indictment.

Be it enacted by the Legislature of West Virginia:

That section seven, article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by section seven, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 7. *Specific Acts Forbidden; Form of Indictment.*—A person shall not:

(1) Manufacture or sell in this state without a license any alcoholic liquor except as permitted by this article;

(2) Aid or abet in the manufacture or sale of alcoholic liquor without a license except as permitted by this article;

(3) Sell without a license any alcoholic liquor other than permitted by this article;

(4) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, unrectified or impure form of ethyl alcohol, or other foreign or deleterious substance or liquid;

(5) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has been sold at retail in this state;

17 (6) Advertise any alcoholic liquor in this state except
18 in accordance with the rules and regulations of the com-
19 mission;

20 (7) Distribute, deal in, process, or use crowns, stamps
21 or seals required under authority of this chapter, except
22 in accordance with the rules and regulations prescribed
23 by the commission.

24 A person who violates any provision of this section
25 shall be guilty of a misdemeanor, and upon conviction
26 shall be fined not less than fifty nor more than five hun-
27 dred dollars, or confined in jail not less than thirty days
28 nor more than one year, or both such fine and imprison-
29 ment, for the first offense. Upon conviction of a second
30 or subsequent offense, the court may in its discretion
31 impose a penalty of confinement in the penitentiary for a
32 period not to exceed three years.

33 An indictment for any first violation of subdivisions
34 one, two and three of this section, or any of them, shall be
35 sufficient if in form or effect as follows:

36 State of West Virginia

37 County of _____, to-wit:

38 The Grand Jurors of the State of West Virginia, in and
39 for the body of the County of _____,
40 upon their oaths present that _____, on
41 the _____ day of _____, 19____, in the
42 said County of _____, did unlaw-
43 fully, without a state license and without authorization
44 under the Liquor Control Act, manufacture and sell, and
45 aid and abet in the manufacture and sale of a quantity of
46 alcoholic liquor, against the peace and dignity of the
47 State.

48 Any indictment under this section shall otherwise be
49 in conformity with section one, article nine, chapter sixty-
50 two of the code.

CHAPTER 78

(House Bill No. 28—By Mr. Paul)

AN ACT to amend chapter one hundred twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, by amending and reenacting sections one, nine and eleven thereof, and by adding a new section thereto, numbered section fourteen, all relating to the West Virginia real estate commission.

[Passed February 18, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 12. Real Estate Commission, Brokers and Salesmen.

Section

1. The West Virginia real estate commission created; members; organization; expenditures.
9. Expiration of license; revocation of broker's license suspends salesman's license.
11. Penalties; jurisdiction of crimes by justices.
14. Act designated as article of code.

Be it enacted by the Legislature of West Virginia:

That sections one, nine and eleven, chapter one hundred twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, be amended and reenacted, and that a new section, numbered section fourteen, be added thereto, all to read as follows:

Section 1. *The West Virginia Real Estate Commission*

- 2 *Created; Members; Organization; Expenditures.*—There
- 3 shall be a commission known as "The West Virginia Real
- 4 Estate Commission", which shall be a corporation, and, as
- 5 such, may sue and be sued, contract and be contracted
- 6 with, and shall have a common seal. The commission
- 7 shall consist of three members who shall be appointed by
- 8 the governor by and with the advice and consent of the
- 9 senate. Each member of the board shall be a citizen of the
- 10 United States and a resident of this state, and two of
- 11 whom shall have been engaged in the real estate business
- 12 for a period of at least five years immediately prior to
- 13 their appointment, and the third shall be a representative
- 14 of the public generally. Each member shall be appointed

15 for a term of four years. Members in office on the date
16 this section becomes effective shall continue in office until
17 their respective terms expire: *Provided, however,* That at
18 the first expiration of a term, the governor shall appoint
19 the member representing the public generally as herein
20 provided. Any appointment to fill a vacancy shall be for
21 the unexpired term. Members shall serve until their re-
22 spective terms expire and until their successors have been
23 appointed, unless sooner removed. Not more than two
24 members of such commission shall belong to the same
25 political party.

26 No member shall be a candidate for or hold any other
27 public office or be a member of any political committee
28 while acting as such commissioner. In case any commis-
29 sioner be a candidate for or hold any other public office
30 or be a member of any political committee, his office as
31 a commissioner shall *ipso facto* be vacated.

32 The governor shall designate one member of the com-
33 mission as the chairman thereof, and the members shall
34 choose one of the members thereof as secretary. Two
35 members of the commission shall constitute a quorum
36 for the conduct of official business. The members of the
37 commission shall not receive any salary, excepting that
38 they shall be paid the sum of ten dollars for each day
39 actually spent in the work of the commission, and they
40 shall each receive their actual and necessary expenses in-
41 curred in such work. The commission may employ such
42 clerical and other help as may be necessary for the con-
43 duct of the duties of the commission, which shall be paid
44 for out of the fund hereby created. All fees and charges
45 collected by the commission under the provisions of this
46 act shall be paid into a special fund for the purpose of
47 this act, and all expenditures of the commission shall be
48 paid therefrom. The amount paid to or expended by the
49 commission in any fiscal year shall not exceed the reve-
50 nues derived under the provisions of this act as herein-
51 after provided.

Sec. 9. *Expiration of License; Revocation of Broker's*
2 *License Suspends Salesman's License.*—All licenses is-
3 sued during the year one thousand nine hundred forty-

4 three shall expire on the thirty-first day of December of
5 that year. For the period from January first, one thou-
6 sand nine hundred forty-four, to June thirtieth, one thou-
7 sand nine hundred forty-four, all licenses shall be issued
8 on a semi-annual basis, the fees for which shall be one-
9 half the yearly fees provided for in section eight of this
10 article. On and after July first, one thousand nine hun-
11 dred forty-four, the fiscal year shall constitute the license
12 year under this article, from which date all licenses shall
13 expire at midnight on the thirtieth day of June of each
14 year. The commission shall issue a new license for each
15 ensuing year, in the absence of any reason which might
16 warrant the refusal of the granting of a license, upon the
17 receipt of the annual fee therefor, as herein required.
18 The revocation of a broker's license shall automatically
19 suspend every real estate salesman's license granted to
20 any person by virtue of his employment by the broker
21 whose license has been revoked, pending a change of em-
22 ployer and the issuance of a new license. Such new li-
23 cense shall be issued without charge, if granted during
24 the same year in which the original license was granted.

Sec. 11. *Penalties; Jurisdiction of Crimes by Justices.*

2 —Any person who shall engage in the real estate business
3 as defined by this article, without a license, or who shall
4 violate any other provision of this article, shall be guilty
5 of a misdemeanor for each single violation, and upon con-
6 viction thereof shall be punished by a fine of not less
7 than fifty dollars nor more than five hundred dollars, or
8 by imprisonment for a term not to exceed six months, or
9 both.

10 Justices of the peace shall have concurrent jurisdiction
11 with the circuit, criminal and intermediate courts to en-
12 force the penalties prescribed by this article.

Sec. 14. *Act Designated as Article of Code.*—Chapter

2 one hundred twenty-seven, acts of the Legislature, regu-
3 lar session, one thousand nine hundred thirty-seven, as
4 amended by this act, is hereby declared to be an amend-
5 ment to chapter forty-seven of the code of West Virginia,
6 one thousand nine hundred thirty-one, and designated as
7 article twelve of said chapter.

CHAPTER 79

(Senate Bill No. 127—By Mr. Vickers, by request)

AN ACT to amend and reenact section one, article four, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, relating to the location, management and control of the home for aged and infirm colored men and women.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 4. Home for Aged and Infirm Colored Men and Women.

Section

1. Continuation; location; management; superintendent.

Be it enacted by the Legislature of West Virginia:

That section one, article four, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

- Section 1. *Continuation; Location; Management; Superintendent.*—The West Virginia home for aged and infirm colored men and women, heretofore established, shall be continued and shall in the future be located at McKendree, in the county of Fayette, in the property formerly occupied by McKendree emergency hospital, which said McKendree emergency hospital is hereby discontinued. The home shall be managed, directed and controlled as provided in article one, chapter twenty-five of the code of West Virginia. The chief executive officer shall be the superintendent, who shall be a citizen of this state and a person of good executive ability.

CHAPTER 80

(Senate Bill No. 117—By Mr. Johnston, by request)

AN ACT to amend and reenact section one, article fourteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to Bluefield State Teachers College.

[Passed March 5, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 14. Bluefield State College.

Section

1. Change of name; supervision and management.

Be it enacted by the Legislature of West Virginia:

That section one, article fourteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 1. *Change of Name; Supervision and Management.*—The Bluefield State Teachers College, heretofore established and located at Bluefield, in Mercer county, shall be continued and shall be known as the "Bluefield State College". The educational affairs of the Bluefield State College shall be under the control, supervision and management of the joint boards of education.

The rules and regulations made by the president and faculty of said college for its general government, for the admission of students thereto and the standards of scholarship to be maintained therein shall be submitted to the joint boards of education for their approval.

The negro board of education in conjunction with the state board of education shall establish and maintain in the Bluefield State College, in addition to the departments already established, such other courses of study as may be expedient and practicable, and shall prescribe the conditions for graduation therefrom and make rules for the conferring of degrees and for issuing the proper diplomas to those who complete such courses, as in the case of other state educational institutions.

CHAPTER 81

(Com. Sub. for House Bills Nos. 12 and 108—Originating in the House Committee on Education)

AN ACT to amend and reenact section one, article twelve, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to state teachers' colleges.

[Passed March 5, 1943; in effect July 1, 1943. Approved by the Governor.]

Article 12. State Teachers' Colleges.

Section

1. Change of names; continuation and management.

Be it enacted by the Legislature of West Virginia:

That section one, article twelve, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 1. *Change of Names; Continuation and Management.*—The state teachers' colleges heretofore established and known as state normal schools shall be continued and shall be known, respectively, as follows: "Fairmont State College", "Shepherd College", "Glenville State College", "West Liberty State College" and "Concord College". The educational affairs of the aforesaid institutions shall be under the control, supervision and management of the state board of education, as provided in section thirteen, article two of this chapter, and their financial and business affairs shall be under the charge and control of the state board of control, as provided in section four, article one, chapter twenty-five of this code. The functions of these colleges shall continue to be the preparation of teachers through such courses of study as the faculties thereof may prescribe with the approval of the state board of education, and also the offering of such curricula in general and vocational education as the state board of education may direct or approve. The colleges are authorized to grant the degrees of bachelor of

21 arts and bachelor of science to students completing the
22 curricula for such degrees as approved by the state board
23 of education. The rules and regulations made by the
24 presidents and faculties of these colleges for their gen-
25 eral government, for the admission of students thereto,
26 the standards of scholarship to be maintained therein and
27 the graduation of students therefrom, shall be submitted
28 to the state board of education for its approval. The
29 president and teachers of each of the colleges shall be
30 persons of broad and liberal education, as evidenced by
31 the possession of a bachelor's degree from a standard col-
32 lege or university, or the equivalent thereof, as a min-
33 imum requirement.

CHAPTER 82

(Senate Bill No. 85—By Mr. Boreman)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be numbered twenty-two, relating to the establishment of a full medical course for students at West Virginia University, in conjunction with universities and medical colleges outside the state.

[Passed March 3, 1943; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

22. Four-year medical course.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be numbered twenty-two, to read as follows:

Section 22. *Four-year Medical Course.*—The board of
2 governors is authorized to establish a four-year medical

3 course for students of the university, such course to be
4 conducted in accordance with rules and regulations
5 made by the president and the faculty of the college of
6 medicine, and approved by the board as provided in this
7 article. The entire course may be given at the university,
8 or it may be given in part at other universities and medi-
9 cal colleges outside the state.

10 The board is authorized to enter into any agreements
11 which may be necessary to enable the university to award
12 degrees in medicine in conjunction with such other uni-
13 versities and medical colleges, and to that end may direct
14 the expenditure outside the state of any university funds
15 available to the college of medicine.

16 No student shall be eligible to take the courses which
17 may be established under the provisions of this section
18 unless he (1) has been a bona fide resident of this state
19 at least five years, (2) has completed the medical course
20 provided at the university, and (3) has been chosen for
21 the purpose by the president and faculty of the college of
22 medicine at the university.



CHAPTER 83

(Com. Sub. for House Bill No. 354—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend chapter twenty-five of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article to be designated article
one-a, relating to the collection and expenditure of fees
and other money collected at state institutions.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Insti- tutions.

Section

1. Enrollment fees at educational institutions; refund of fees.
2. Fees and money derived from athletic contests; expenditure auth-
orized; use of funds.

3. Student activity fees at state educational institutions; statement to be filed with auditor and budget director.
4. Fees from operation of dormitories, boarding houses and cafeterias; allocation of fees collected.
5. Sale of books and stationery; expenditure of receipts directed and restricted.
6. Sale of excess farm and dairy products.
7. Disposition of funds in state treasury.
8. Control, supervision or management of West Virginia university not affected.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article one-a, to read as follows:

Section 1. Enrollment Fees at Educational Institutions;

2 *Refund of Fees.*—The West Virginia board of control, in
3 conjunction with the governing boards of state educa-
4 tional institutions, shall fix enrollment fees for each se-
5 mester or school term for the different classes or cate-
6 gories of students enrolling at the state educational in-
7 stitutions. The schedule of fees, and any changes in the
8 schedule, shall be entered in the minutes of meetings of
9 the board of control, and the board of control shall file
10 with the state auditor and state budget director a certi-
11 fied copy of such schedule and changes.

12 Refund, as an erroneous payment, may be made of
13 enrollment fees, upon the voluntary or involuntary with-
14 drawal from classes of any student, until eight weeks of
15 the school semester or term have expired, but no refund
16 may be made thereafter.

Sec. 2. Fees and Money Derived from Athletic Con-

2 *tests; Expenditure Authorized; Use of Funds.*—The di-
3 rectors of athletics at state educational institutions may
4 fix and charge admission fees to athletic contests at state
5 educational institutions, and may enter into contracts,
6 spend and receive money under such contracts, for the
7 student athletic teams of state educational institutions to
8 contest with other athletic teams inside or outside the
9 state.

10 All money derived from such fees and under such con-
11 tracts shall be used to defray the cost of maintaining the

12 athletic department and athletic program of such institu-
13 tions.

Sec. 3. *Student Activity Fees at State Educational In-*
2 *stitutions; Statement to Be Filed With Auditor and Bud-*
3 *get Director.*—The president of any state educational in-
4 stitution may authorize the collection of fees from stu-
5 dents for the support of extra-curricular activities of the
6 students, and after authorizing the collection of such fees,
7 the president shall file with the state auditor and state
8 budget director a certified detailed statement of the fees
9 authorized to be collected and the purpose for which they
10 are to be spent.

Sec. 4. *Fees from Operation of Dormitories, Boarding*
2 *Houses and Cafeterias; Allocation of Fees Collected.*—
3 The state board of control shall fix the fees to be
4 charged students and members of the faculties for
5 rooms, board and meals at the dormitories, boarding houses
6 and cafeterias operated at state educational institutions.
7 Such fees shall be commensurate with the complete cost
8 of such services.
9 All fees collected for such services shall be allocated
10 to pay operating and maintenance costs of dormitories,
11 boarding houses and cafeterias, and to meet the interest
12 and principal payments on outstanding bonds issued to
13 derive money for the construction and installation of
14 facilities required to render the services offered.

Sec. 5. *Sale of Books and Stationery; Expenditure of*
2 *Receipts Directed and Restricted.*—The state board of
3 control shall fix the prices of books and stationery of-
4 fered for sale to students and members of the faculties
5 by the book and stationery stores established and in op-
6 eration, and those hereafter established, at state educa-
7 tional institutions. The sale of books and stationery is
8 restricted to the students and members of the faculties
9 of state educational institutions. Prices for books and
10 stationery shall be commensurate with the complete cost
11 to the state in offering such products for sale.

12 Money derived from the sale of books and stationery
13 shall be used for no purpose other than to replenish the

14 stock of books and stationery and to pay the costs of op-
15 erating and maintaining the stores.

Sec. 6. Sale of Excess Farm and Dairy Products.—

2 The state board of control shall direct the sale of farm
3 and dairy products of farms operated at the various state
4 institutions, but only those products may be sold which
5 cannot be consumed in the institution at which they
6 are produced. The board shall endeavor to sell excess
7 products to other state institutions.

Sec. 7. Disposition of Funds in State Treasury.—All

2 funds in the state treasury heretofore collected from any
3 of the sources defined in the foregoing sections shall
4 remain in the state treasury, and may be expended only
5 as those which are authorized to be collected in the fore-
6 going sections.

Sec. 8. Control, Supervision or Management of West

2 *Virginia University Not Affected.*—Nothing contained
3 herein shall be construed to repeal or affect the control,
4 supervision, or management of West Virginia University,
5 as provided by chapter thirteen, acts of the Legislature,
6 one thousand nine hundred twenty-seven, as amended.

CHAPTER 84

(Com. Sub. for House Bill No. 327—Originating in the House Committee on
Forfeited, Delinquent and Unappropriated Lands)

AN ACT to amend and reenact sections seven and eight, article one; to amend and reenact section thirteen, article two, and to add to article two a new section to be numbered ten-a; to amend and reenact sections two, twenty-one, twenty-two and forty-one, article three; and to amend and reenact sections six, seven, eight, nine, ten, twenty-one, twenty-eight, thirty-two, thirty-four, thirty-eight, forty-three and fifty, article four, and to add to article four a new section to be numbered twenty-two-a; all of chapter eleven-a of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, and all relating to the collection and enforcement of property taxes and to the sale of lands for the school fund.

[Passed March 11, 1943; in effect from passage. Approved by the Governor.]

Article

1. **Accrual and Collection of Taxes.**
2. **Delinquency and Methods of Enforcing Payment.**
3. **Sale of Land for Taxes.**
4. **Sale of Lands for School Fund.**

Be it enacted by the Legislature of West Virginia:

That sections seven and eight, article one, be amended and reenacted; that section thirteen, article two, be amended and reenacted; and that section ten-a be added to article two; that sections two, twenty-one, twenty-two and forty-one, article three, be amended and reenacted; that sections six, seven, eight, nine, ten, twenty-one, twenty-eight, thirty-two, thirty-four, thirty-eight, forty-three and fifty, article four, be amended and reenacted, and that section twenty-two-a be added to article four; all of chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Article 1. Accrual and Collection of Taxes.

Section

7. No collection of current taxes until delinquent taxes are paid.
8. Notice of time and place for payment.

Section 7. *No Collection of Current Taxes until Delinquent Taxes are Paid.*—The sheriff, in preparing his tax receipts for any current year shall examine and compare them with the delinquent list for the preceding year in his hands, and if any tract is found to be delinquent for the preceding year, shall note the fact on his current receipts and shall decline to receive current taxes on any land where it appears to his office that a prior year's taxes are unpaid. Acceptance of current taxes through oversight shall not relieve the owner of any land of the liability to pay prior taxes and penalties imposed for nonpayment.

Sec. 8. *Notice of Time and Place for Payment.*—It shall be the duty of the sheriff to give notice by posting at not

3 less than six public places in each magisterial district,
4 for at least ten days before the time appointed, that be-
5 tween September fifteenth and November first he will
6 attend at one or more of the most public and convenient
7 places in each district, such places to be specified in the
8 notice, for the purpose of receiving taxes due by the
9 people residing or paying taxes in such district. The
10 notice shall also state that those who pay the first in-
11 stallment of their taxes on or before November first
12 will be entitled to a discount of two and one-half per
13 cent. Like notice shall be given that between March
14 fifteenth and May first, he will again appear in each dis-
15 trict for the collection of taxes, and that those who pay
16 their second installment on or before May first will be
17 entitled to the same discount. Any sheriff failing to
18 post the notice herein required shall forfeit one hundred
19 dollars for each failure. Failure of the sheriff to post
20 such lists shall not impair the right of the state to collect
21 such taxes.

22 The county court of any county may order that the
23 above notice shall also be given by advertisement. Such
24 an order, once entered, shall continue in effect until
25 rescinded by the county court. Upon entry of such or-
26 der, the sheriff shall, besides posting as required above,
27 insert the proper notice in two newspapers of opposite
28 politics, if such there be in the county, once a week for
29 two successive weeks next preceding the first day of
30 October or the first day of April as the case may be. For
31 every failure so to advertise, the sheriff shall forfeit one
32 hundred dollars.

Article 2. Delinquency and Methods of Enforcing Payment.

Section

10-a. Notice of delinquency.

13. Publication and posting of delinquent lists.

Section 10-a. *Notice of Delinquency.*—On or after June
2 first of each year, the sheriff may prepare and insert
3 twice in two newspapers of opposite politics published
4 in the county a notice stating in effect that the taxes
5 assessed for the previous year have become delinquent,
6 and that unless paid by June thirtieth will be included

7 for publication in the forthcoming delinquent lists. Of
8 the costs of publishing this notice, the county court shall
9 pay an amount not to exceed the regular commercial
10 rate for a display advertisement of twelve column inches.

Sec. 13. *Publication and Posting of Delinquent Lists.*—

2 A copy of each of the delinquent lists shall be posted at
3 the front door of the courthouse of the county at least
4 two weeks before the session of the county court at
5 which they are to be presented for examination. At
6 the same time, a copy of each list shall be printed once
7 in two newspapers of opposite politics, if such there be
8 in the county, and the costs of printing, not to exceed
9 twenty-five cents per item for each insertion in each
10 newspaper, shall be paid out of the county treasury; but
11 in such publication, only the aggregate amount of the
12 taxes owed by each person need be published. To cover
13 the costs of preparing, publishing and posting the delin-
14 quent lists, a charge of one dollar shall be added to the
15 taxes and interest already due on each item listed.

16 Any person, whose taxes were delinquent on July
17 first, may have his name removed from the delinquent
18 lists prior to the time the same is delivered to the news-
19 papers for publication, by paying to the sheriff the full
20 amount of the taxes and costs owed by such person at
21 the date of such redemption. The sheriff shall collect a
22 charge of only fifty cents if redemption is made before the
23 list is delivered for publication. Costs collected by the
24 sheriff hereunder which are not expended for publica-
25 tion shall be paid into the general county fund.

Article 3. Sale of Land for Taxes.

Section

- 2. Second publication and posting of list of delinquent real estate; notice.
- 21. Report or survey of real estate purchased.
- 22. Survey when part of tract is purchased.
- 41. Publication by sheriff of sales list.

Section 2. *Second Publication and Posting of List of Delinquent Real Estate; Notice.*—On or before November
2 tenth of each year, the sheriff shall prepare a second list
3 of delinquent lands, which shall include all real estate
4 in his county remaining delinquent as of November
5

6 first, together with a notice of sale, in form or effect as
7 follows:

8 Notice is hereby given that the following described
9 tracts or lots of land or undivided interests therein in
10 the county of _____, which are delinquent for
11 the nonpayment of taxes for the year (or years) 19____,
12 will be offered for sale by the undersigned sheriff (or
13 collector) at public auction at the front door of the
14 courthouse of the county, between the hours of ten
15 in the morning and four in the afternoon on the _____day
16 of _____, 19_____.

17 Each unredeemed tract or lot, or each unredeemed part
18 thereof or undivided interest therein, or so much thereof
19 as may be necessary, will be sold for the amount due
20 thereon, as set forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest & charges due to date of sale
---	------------------------	----------------------	---

21 Any of the aforesaid tracts or lots, or part thereof, or an
22 undivided interest therein, may be redeemed by the
23 payment to the undersigned sheriff (or collector) be-
24 fore sale, of the total amount of taxes, interest and
25 charges due thereon up to the date of redemption.

26 Given under my hand this _____ day of _____,
27 19_____.

28

29

Sheriff (or collector)

30 The sheriff shall publish the list and notice, once a
31 week for four successive weeks prior to the sale date
32 fixed in the notice, in two newspapers of opposite poli-
33 tics, if such there be in the county, and the costs of
34 printing, not to exceed twenty-five cents per item for
35 each insertion in each newspaper, shall be paid out of
36 the county treasury. He shall also post a copy of such
37 list and notice at the front door of the courthouse at
38 least four weeks before the sale. If there is no news-
39 paper published in the county, or if no such newspaper
40 will publish the list and notice for the compensation
41 provided by law, then the sheriff shall also post a copy
42 of the notice, but not of the delinquent list, at some pub-

43 lic place in each magisterial district at least twenty days
44 before the sale. In such case, the notice shall also state
45 that the delinquent list has been posted at the front
46 door of the courthouse.

47 To cover the costs of preparing, publishing and post-
48 ing the delinquent list, a charge of two dollars and fifty
49 cents shall be added to the taxes, interest and charges
50 already due on each item listed. The sum of the taxes,
51 interest to the date of sale, and other charges shall be
52 stated in the list as the total amount due.

53 Any person, whose taxes were delinquent on Novem-
54 ber first, may have his name removed from the delinquent
55 list prior to the time the same is delivered to the news-
56 paper or newspapers for publication by paying to the
57 sheriff the full amount of taxes and costs owed by such
58 person at the date of such redemption. In such cases, the
59 sheriff shall include but fifty cents of the costs provided
60 in this section in making such redemption. Costs collected
61 by the sheriff hereunder which are not expended for
62 publication shall be paid into the general county fund.

Sec. 21. Report or Survey of Real Estate Purchased.—

2 Except as provided in the following section, an individual
3 purchaser at the tax sale, his heirs or assigns, must at his
4 or their expense have the county surveyor or a compe-
5 tent surveyor or civil engineer make either a report or a
6 survey of the real estate purchased. The report shall
7 contain such a description of the property as will iden-
8 tify it, and shall specify the metes and bounds thereof, if
9 ascertainable without a survey, unless there is a re-
10 corded plat of such property to which reference can be
11 made. If a survey is preferred, a plat of the property
12 and description thereof by metes and bounds must be ob-
13 tained from the surveyor. If the sale was of an un-
14 divided interest in any property, the report or survey
15 shall be of the entire property. The report or the plat
16 and description must be filed with the clerk of the county
17 court within the time specified in section twenty of this
18 article. The fact and time of such filing shall be endorsed
19 by the clerk on the report or on the plat and description.

Sec. 22. *Survey When Part of Tract Is Purchased.*—

2 Whenever only part of a tract is sold for the taxes due
 3 on the entire tract, the purchaser of such part, his heirs
 4 or assigns, must, at his or their expense, have the part
 5 so purchased surveyed by the county surveyor and laid
 6 off by metes and bounds. The area so laid off shall be
 7 bounded in part by some one or more of the lines of the
 8 tract, to be selected by the purchaser, his heirs or as-
 9 signs. The part chosen shall not include any of the im-
 10 provements on the tract, if this can be avoided, and shall
 11 be in one body, the length of which shall, whenever
 12 practicable, be not more than twice the breadth. A plat
 13 of the part so laid off and a description thereof, to be
 14 prepared by the surveyor, mentioned in the preceding
 15 section, must be filed with the clerk of the county court
 16 within the time specified in section twenty of this ar-
 17 ticle. The fact and time of such filing shall be endorsed
 18 by the clerk on the plat and description.

Sec. 41. *Publication by Sheriff of Sales List.*—Within

2 one month after completion of the sale, the sheriff shall
 3 prepare and publish for two successive weeks in two
 4 newspapers of opposite politics, if such there be in the
 5 county, otherwise in some newspaper published in the
 6 county, a list of all the sales made by him, in form or
 7 effect as follows:

8 List of real estate sold in the county of _____, in
 9 the month (or months) of _____, 19 _____, for
 10 nonpayment of taxes thereon for the year (or years)
 11 19 _____, and purchased by individuals or by the State of
 12 West Virginia:

Name of Person Charged with Taxes	Local Description of Lands	Quantity of Land Charged	Quantity of Land Sold	Name of Purchaser	Whole Amount Paid by Purchaser
---	----------------------------------	--------------------------------	-----------------------------	-------------------------	---

13 The owner of any real estate listed above, or any other
 14 person entitled to pay the taxes thereon, may, however,
 15 redeem such real estate as provided by law.

16 Given under my hand this _____ day of _____,
 17 19____.

18 In addition to the publication required above, the sher-

19 iff shall post a copy of such list at the front door of the
20 courthouse. If no newspaper will publish the list for the
21 compensation provided by law, or if there is no newspa-
22 per published in the county, the sheriff shall also post a
23 copy of the list at some public place in each magisterial
24 district in the county. The costs of printing the sales list,
25 not to exceed twenty-five cents per item for each inser-
26 tion in each newspaper, shall be paid out of the county
27 treasury. To cover the costs of preparing, publishing and
28 posting such list, a charge of one dollar and fifty cents
29 shall be added to the taxes, interest and charges already
30 due on each item listed.

Article 4. Sale of Lands for School Fund.

Section

6. Auditor's record of delinquent lands.
7. Operating fund for land department in auditor's office.
8. Officers to report lands subject to sale.
9. Auditor to certify list of lands to be sold.
10. Redemption after certification and before sale.
21. Sale by deputy commissioner; report to circuit court.
- 22-a. Return of purchase money.
28. Redemption after sale to public land corporation and before con-
firmation.
32. Conditions precedent to confirmation of sale to individual pur-
chaser.
34. Report or survey of real estate purchased.
38. Service of notice.
43. Title acquired.
50. Annual report of deputy commissioner to auditor.

Section 6. *Auditor's Record of Delinquent Lands.*—The
2 auditor shall prepare and keep in his office as a perma-
3 nent record of all delinquent lands, the delinquent rec-
4 ords referred to in section fourteen, article two, and the
5 sales records referred to in section thirty-eight, article
6 three of this chapter, and shall enter on such records all
7 forfeited, escheated, and waste and unappropriated lands
8 reported to him as are required in section eight of this
9 article. These records shall, as to every tract listed, set
10 forth the information available as to quantity, local de-
11 scription, and, except in the case of waste and unappro-
12 priated lands, the name of the former owner and the re-
13 spective dates of delinquency, sale to the state, dates of
14 nonentry and forfeiture, or escheat, as the case may be.
15 These records shall be prima facie evidence of all matters

16 required by this section to be set forth therein, including
17 the propriety of the description of lands as delinquent,
18 forfeited, escheated, or waste and unappropriated.

Sec. 7. *Operating Fund for Land Department in Auditor's Office.*—The auditor shall set up a special operating
2 fund for the land department in his office. He shall pay
3 into such fund all redemption fees, all publication or
4 other charges collected by him, if such charges were paid
5 by or were payable to him, and all payments made to
6 him by sheriffs under the provisions of section fifty-one
7 of this article, except such part thereof as represents state
8 taxes and interest received by the sheriff for redemptions
9 after certification and before sale. The fund shall be used
10 by the auditor to pay any sums owing him to deputy commissioners for services rendered under the provisions of
11 this article, circuit court costs, and costs for preparation
12 and service of notices under the provisions of this article,
13 and to pay for the operation and maintenance of the land
14 department in his office. The surplus, over and above an
15 amount of twenty-five thousand dollars, remaining in the
16 fund at the end of any fiscal year, shall be paid by the
17 auditor into the general school fund.

Sec. 8. *Officers to Report Lands Subject to Sale.*—
2 Whenever an assessor, or clerk of the county court, or
3 county surveyor learns of the existence within the county
4 of any forfeited land, he shall promptly report that fact
5 to the auditor, together with his information relating
6 thereto. The county surveyor shall also report all waste
7 and unappropriated lands within his county, except lands
8 lying under the bed of a navigable stream, and shall in
9 his report specify the quantity, the local description, and
10 any claims of title thereto. The assessor, as escheator,
11 shall likewise report all lands which escheat to the state.

Sec. 9. *Auditor to Certify List of Lands to Be Sold.*—
2 On or after the first day of January, one thousand nine
3 hundred forty-three, and on or before the first day of
4 July of each year thereafter, the auditor shall certify to
5 the circuit court of each county a list of all lands in the
6 county subject to sale under this article which have been

7 under his control as state commissioner of forfeited and
8 delinquent lands for at least one year before certification.
9 He shall note the fact of certification on his record of de-
10 linquent lands. Upon completion of a list for certification,
11 a charge of one dollar shall be added to the taxes, interest
12 and charges already due on each item listed to cover the
13 costs incurred by the auditor in the preparation of the
14 list, and in the event of any sale or redemption, the same
15 shall be paid into the operating fund provided for in this
16 article.

17 Each of the four classes of land subject to sale shall be
18 listed separately. The list shall be arranged by districts
19 and, except in the case of waste and unappropriated lands,
20 alphabetically by name of the former owner. The list
21 shall state as to each item listed, the information required
22 by section six of this article to be set forth in the auditor's
23 record of delinquent lands, and shall specify as to each
24 tract listed as delinquent or forfeited, the amount of taxes
25 and interest due for each year prior to certification, the
26 publication and other charges due, with interest, and the
27 total currently due, which total shall, except for the re-
28 demption fee, correspond to the sum required for redemp-
29 tion from the auditor on the date of certification. The
30 specification of taxes due shall, as to delinquent land, com-
31 mence with those for nonpayment of which it was sold,
32 and as to forfeited land, with those properly chargeable
33 to it for the first year of nonentry.

34 The items listed shall be numbered consecutively, and
35 all subsequent orders, entries, applications or proceedings
36 under this article in respect to any item shall refer to its
37 number and to the year of certification. All tracts, lots,
38 or parcels sold to the state as a unit shall be treated by
39 the auditor as a single item for purposes of certification.
40 Subject to the provisions of this section, the auditor shall
41 prescribe a form for the list and shall provide in such
42 form adequate space to show the subsequent history and
43 final disposition of each item certified.

44 The list shall be made in quadruplicate. The auditor
45 shall keep the original, and shall send one copy to the clerk
46 of the circuit court, one to the clerk of the county court,

47 and one to the deputy commissioner. The clerk of the
48 county court shall bind his copy in a permanent book to
49 be labeled "Report of State Commissioner of Forfeited
50 and Delinquent Lands", and shall note the fact of the cer-
51 tification of each item on his record of delinquent lands.
52 The clerk of the circuit court shall preserve his copy in a
53 suitable and convenient manner until each item therein
54 certified has been finally disposed of. Such copies shall
55 become a permanent record, as to such delinquent and
56 forfeited lands, and shall be preserved as such in the
57 auditor's and county clerk's offices.

Sec. 10. *Redemption After Certification and Before Sale.*

2 —In order to redeem after certification and before sale,
3 any person having a right of redemption under the pro-
4 visions of section eight, article three of this chapter, must
5 apply to the deputy commissioner. The deputy com-
6 missioner shall thereupon compute the amount required
7 for redemption by adding to the amount stated in the
8 auditor's list as the total due on the date of certification,
9 interest on such amount at the rate of twelve per cent
10 per annum from such date to the date of redemption,
11 and such of the following fees and charges as may be
12 due: (1) Such fee for the certificate of redemption as
13 is provided by section nine, article three of this chapter,
14 for redemption from the auditor, together with an addi-
15 tional fee of one dollar for the deputy commissioner for
16 execution of the certificate. (2) A charge of one dollar
17 for preparation and certification of the list. (3) A fee of
18 one dollar for compensation of the deputy commissioner.
19 (4) A charge of one dollar for costs of the proceedings
20 in the circuit court, if redemption is after application to
21 the court as provided in section fourteen of this article.
22 (5) A charge of one dollar for publication and posting of
23 the list and the notice of sale, if redemption is after pub-
24 lication has begun.

25 The amount so found to be due shall be entered by
26 the deputy commissioner on a blank order, to be signed
27 by him, directing the sheriff to receive and give his re-
28 ceipt for such amount. The order, thus filled in and signed,
29 shall be presented to the sheriff when payment is made.

30 The auditor shall prescribe the form of the order, and
31 shall furnish copies thereof to each deputy commissioner.
32 Partial redemption, as provided for in sections eight and
33 thirteen, article three of this chapter, shall not be al-
34 lowed at any time after certification.

Sec. 21. *Sale by Deputy Commissioner; Report to Cir-*
2 *cuit Court.*—On the day fixed by order of the court or
3 judge, the deputy commissioner shall sell, in the man-
4 ner specified in the notice of sale and for at least the
5 amount stated to be due in the published list of lands
6 to be sold, each unredeemed item included in such list,
7 unless the sale thereof has been suspended. If the sale
8 is not completed on that day, it shall be continued from
9 day to day until all the land has been disposed of. For
10 the purpose of receiving the proceeds of the sale, it shall
11 be the duty of the sheriff to attend all such sales con-
12 ducted by the deputy commissioner in his county.

13 The deputy commissioner shall prepare a report for the
14 circuit court which shall show what was done with re-
15 spect to all lands ordered to be sold. The report shall
16 state as to each item whether it was redeemed before
17 sale, was suspended from sale, or was sold, and if sold,
18 the name of the purchaser. The report shall, within ten
19 days after the sale, be filed with the clerk of the circuit
20 court, who shall note on his certified list the information
21 given with respect to each tract.

Sec. 22-a. *Return of Purchase Money.*—Whenever, after
2 sale and before confirmation thereof, it is discovered that
3 the land sold was nonexistent or that it had been the
4 subject of a duplicate or improper assessment or was
5 transferred to others under the provisions of article thir-
6 teen of the constitution of the state of West Virginia, the
7 purchaser shall be entitled to a return of the purchase
8 money. Upon request of a purchaser so entitled, it shall
9 be the duty of the deputy commissioner to apply to the
10 circuit court, or to the judge thereof in vacation, for an
11 order directing the sheriff to return the purchase money.
12 If satisfied that the application is proper, the court or
13 judge shall enter the order applied for, but no costs shall

14 be taxed in connection with such an application. Upon
15 entry of such an order, the clerk of the court shall no-
16 tify the assessor, who shall make the necessary correc-
17 tions in the land books in his office.

Sec. 28. *Redemption After Sale to Public Land Cor-
2 poration and Before Confirmation.*—After the sale of any
3 forfeited or delinquent land to the public land corpora-
4 tion, any person having a right of redemption under the
5 provisions of section eight, article three of this chapter,
6 may redeem such land at any time before confirmation
7 of the sale by paying to the sheriff upon the order of
8 the deputy commissioner the following amounts: (1)
9 The amount for which the property was bid in for the
10 public land corporation, with interest at the rate of
11 twelve per cent per annum from the date of sale. (2) Such
12 fee for the certificate of redemption as is provided by
13 section nine, article three of this chapter, for redemption
14 from the auditor, together with an additional fee of one
15 dollar for the deputy commissioner for execution of the
16 certificate. (3) Such compensation for preparing the list
17 of those to be served with notice as may have been earned
18 by the deputy commissioner under the provisions of sec-
19 tion thirty-three of this article. (4) All expenses which
20 may have been incurred in giving the notice required by
21 sections thirty-seven and thirty-eight of this article.

22 Upon presentation to the deputy commissioner of the
23 sheriff's receipt for the amount due, the deputy commis-
24 sioner shall issue a certificate of redemption as required
25 by section eleven of this article, and shall comply with
26 all other provisions of that section in respect to such
27 certificate. The deputy commissioner shall report the re-
28 demption to the clerk of the circuit court, who shall note
29 the fact of redemption on his certified list.

Sec. 32. *Conditions Precedent to Confirmation of Sale
2 to Individual Purchaser.*—In order to have the sale of any
3 forfeited or delinquent land confirmed, an individual pur-
4 chaser, his heirs or assigns, within ninety days after the
5 sale, or within such extension of time as may for good
6 cause shown be granted by the court or judge during the
7 ninety-day period, must: (1) Secure and file with the

8 clerk of the circuit court the report or plat and descrip-
9 tion provided for in section thirty-four of this article;
10 (2) examine the title in order to prepare a list of those
11 to be served with notice to redeem, and apply to the court
12 or judge for an order directing the clerk to prepare and
13 serve the notice as provided in sections thirty-six and
14 thirty-eight of this article; and (3) deposit, or offer to
15 deposit, with the clerk a sum sufficient to cover the cost
16 of preparing and serving the notice. A purchaser of
17 escheated or waste and unappropriated land must meet
18 only the first of these requirements and, as soon as he
19 has done so, may apply for an order confirming the sale.
20 For failure to do anything required by this section within
21 the time allowed, the purchaser shall lose all the benefits
22 of his purchase, and the land shall be included by the
23 auditor in his next certification of lands to the circuit
24 court.

25 If the person requesting preparation and service of the
26 notice is an assignee of the purchaser, he shall, at the
27 time of the request, file with the clerk a written assign-
28 ment to him of the purchaser's rights, executed, acknowl-
29 edged and certified in the manner required to make a
30 valid deed.

Sec. 34. Report or Survey of Real Estate Purchased.—

2 An individual purchaser, his heirs or assigns, must at
3 his or their expense have the county surveyor or some
4 competent surveyor or civil engineer make such a report
5 or survey of the real estate purchased as is required by
6 section twenty-one, article three of this chapter. The
7 report or plat and description must be filed with the clerk
8 of the circuit court within ninety days after the sale, or
9 within the extension of time granted by the court or judge
10 as provided in section thirty-two of this article. The fact
11 and time of such filing shall be endorsed by the clerk on
12 the report or on the plat and description and shall be noted
13 by him on his certified list.

*Sec. 38. Service of Notice.—*As soon as the clerk has

2 prepared the notice provided for in either of the two
3 preceding sections, he shall cause it to be served upon

4 the following persons: (1) The person in whose name
5 the real estate was forfeited or was returned delinquent
6 and sold, or, in case of his death, his heir or devisee and
7 his personal representative, if such there be; (2) any
8 grantee of such person, or his heir or devisee and his per-
9 sonal representative, if such there be, if a conveyance of
10 such real estate is recorded or filed for record in the of-
11 fice of the clerk of the county court; (3) any person hav-
12 ing a lien upon such real estate disclosed by any paper
13 recorded in the county clerk's office, and (4) any other
14 person having such an interest in the property as would
15 entitle him to redeem, if the existence of such interest
16 appears of record.

17 The notice shall be personally served upon all such per-
18 sons residing or found in the state in the manner pro-
19 vided for serving process commencing a suit, on or be-
20 fore the fifteenth day following the order for service of
21 such notice. If any person entitled to notice is a non-
22 resident of the state or if his residence is unknown to
23 the clerk and cannot by due diligence be discovered, the
24 notice shall be served by publication, directed to him, his
25 heirs, and his or their assigns, once a week for three
26 successive weeks in some newspaper published in the
27 county in which such real estate is located, or if no
28 newspaper is published in the county, then in some
29 newspaper of general circulation in the county; and if
30 the person so named be deceased, the notice so pub-
31 lished shall constitute notice to his heirs and their
32 assigns. If service by publication is necessary, publica-
33 tion shall be commenced within three weeks after the
34 order for service of the notice was made, and a copy of the
35 notice shall at the same time be sent by registered mail,
36 return receipt requested, to the last known address of
37 the person served. The return of service of such notice
38 and the affidavit of publication, if any, shall be in the
39 manner provided for process generally, and shall be filed
40 and preserved by the clerk in his office, together with
41 any return receipts for notices sent by registered mail.
42 The cost of serving notices to redeem from the public
43 land corporation shall be paid out of the operating fund
44 for the land department in the auditor's office.

Sec. 43. *Title Acquired.*—Whenever, under the provisions of this article, a purchaser, his heirs or assigns, shall have obtained a deed for any real estate from the deputy commissioner, he or they shall thereby acquire all such right, title, and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by the state or by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of sections twenty-four, forty-five, forty-six, forty-seven or forty-nine of this article. The deed shall be conclusive evidence of the acquisition of such title. The title so acquired shall relate back to the date of the sale. The title acquired by the public land corporation upon confirmation of a sale to it shall be the same as that acquired by an individual purchaser under the provisions of this section.

Sec. 50. *Annual Report of Deputy Commissioner to Auditor.*—In December of each year the deputy commissioner shall prepare a report, on forms to be furnished by the auditor, showing the present status of, and all steps which have been taken in the proceeding in respect to, each item certified to the circuit court in his county, final disposition of which is not shown in any preceding annual report. Such report shall be prepared in quintuplet. On or before the last day of December the original shall be sent to the auditor, one copy to the clerk of the county court, and one copy to the clerk of the circuit court, each of whom shall make the necessary notations on his certified list. The fourth copy shall be sent to the assessor, who shall make the necessary changes in his land books. For failure to make the report required by this section, the deputy commissioner shall forfeit one hundred dollars.

CHAPTER 85

(House Bill No. 380—By Mr. LaFollette)

AN ACT to amend article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, by adding thereto a new section to be numbered section forty-three, relating to certification by the sheriff of delinquent taxes.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 3. Sale of Land for Taxes.

Section

43. Certification by sheriff of delinquent taxes.

Be it enacted by the Legislature of West Virginia:

That article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended by adding thereto a new section to be numbered forty-three, to read as follows:

Section 43. *Certification by Sheriff of Delinquent Taxes.*—In the event any part of article three of this chapter be declared to be unconstitutional so that it is impossible for the sheriff to collect delinquent taxes, upon any property, which are in his hands for collection, or make sale thereof pursuant to the provisions of this chapter, then and in that event the sheriff shall prepare and certify to the auditor, on and after the first day of December of the year next following the year in which such taxes may have been levied, a list or lists of such taxes which are delinquent. The lien of such taxes upon all such property shall remain in force and in effect until enforced or the taxes paid. After certification to the auditor, the auditor shall have the right to receive collection of any such taxes, and shall retain such lists pend-

16 ing the further enactment by the Legislature of West Vir-
17 ginia of statutes relating to the enforcement of the lien
18 for taxes and sale and disposition of any property sub-
19 ject to such liens.

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CHAPTER 86

(Senate Bill No. 223—By Mr. Hannig)

AN ACT to amend and reenact sections one and five, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to privilege tax on certain carrier corporations.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 12-a. Privilege Tax on Certain Carrier Corporations.

Section

1. Definitions.
5. Additional privilege tax on net income of businesses included in preceding section, and on railroad corporations; computing tax.

Be it enacted by the Legislature of West Virginia:

That sections one and five, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Definitions.*—When used in this article, the

- 2 term “company” shall include any partnership, joint ad-
3 venture, joint stock company or association.

- 4 The phrase “motor vehicle carrier” shall mean any
5 person engaged in the transportation of passengers or
6 property, or both, for compensation by motor propelled
7 vehicle for the operation of which a permit or certificate
8 of convenience or convenience and necessity is required
9 by law.

- 10 The term “ton-mile” shall be a unit of transportation

11 meaning transportation of one net ton in weight a dis-
12 tance of one mile.

13 The term "passenger-mile" means the transportation
14 of one passenger a distance of one mile.

15 The term "car-mile" means the operation of a railroad
16 car over a distance of one mile.

17 The term "barrel-mile" means the transportation of the
18 equivalent of a barrel of oil a distance of one mile.

19 The phrase "one thousand cubic feet-mile" means the
20 transportation of one thousand cubic feet of gas, measured
21 at sixty degrees Fahrenheit and a pressure of thirty inches
22 of mercury, a distance of one mile.

23 The term "wire-mile" means the equivalent of a single
24 metallic telephone or telegraph conductor one mile in
25 length.

26 The phrase "motor vehicle mile" means the operation
27 of a motor vehicle carrier over a distance of one mile.

Sec. 5. *Additional Privilege Tax on Net Income of*
2 *Businesses Included in Preceding Section, and on Railroad*
3 *Corporations; Computing Tax.*—In addition to the tax
4 imposed in the preceding sections, every motor vehicle
5 carrier operating on the public highways of the state, and
6 every railroad corporation, railroad car corporation, ex-
7 press corporation or company, pipe-line corporation,
8 telephone and telegraph corporation doing business in this
9 state shall pay an annual privilege tax for each calendar
10 year for the privilege of doing business in the state, to be
11 determined as follows:

12 (a) The tax as to motor vehicle carriers shall be equal
13 to one and one-half per cent of the net income earned
14 within the state, such income to be determined by ascer-
15 taining a sum bearing the proportion to the total net in-
16 come of the motor vehicle carrier that its business done
17 in West Virginia measured in motor vehicle miles of motor
18 vehicle carrier operation, bears to all business done,
19 measured in like fashion.

20 (b) The tax as to railroad corporations shall be equal
21 to four per cent of the net income earned within the
22 state, such income to be determined by ascertaining a sum
23 bearing the proportion to total net income of the cor-

24 poration that its business done in West Virginia, measured
25 in ton-miles, bears to all business done, measured in like
26 fashion.

27 (c) The tax as to railroad car corporations and as to
28 express corporations or companies shall be one and one-
29 half per cent of net income earned within the state, such
30 income to be determined by ascertaining a sum bearing
31 the proportion to the total net income of the corporation
32 or company that its business done in West Virginia, meas-
33 ured in car-miles of car operation, bears to all business
34 done, measured in like fashion: *Provided, however,* That
35 nothing in this act shall be construed as applying to rail-
36 road freight car corporations not owned by railroad cor-
37 porations or their subsidiaries.

38 (d) The tax as to pipe-line corporations shall be three
39 and one-half per cent of net income earned within the
40 state, such income to be determined by ascertaining a
41 sum bearing the proportion to the total net income of the
42 corporation that its business done in West Virginia,
43 measured in barrel-miles in the case of oil and of thou-
44 sand cubic feet-miles in the case of gas, bears to all busi-
45 ness done, measured in like fashion.

46 (e) The tax as to telephone and telegraph corporations
47 shall be two and three-fourths per cent of net income
48 earned within the state as to telephone corporations, and
49 five per cent as to telegraph corporations, such income
50 to be determined by ascertaining a sum bearing the pro-
51 portion to the total net income of the corporation that its
52 business done in West Virginia, measured in wire-miles,
53 bears to all business done, measured in like fashion.

54 (f) In computing the tax imposed by this section, the
55 total net income of a taxpayer, who shall have been taxed
56 under the preceding section, shall be reduced by an
57 amount bearing the proportion to such total net income
58 that the gross income of the taxpayer which is the meas-
59 ure of the tax under the preceding section bears to its
60 total gross income from all business done wherever con-
61 ducted. This section shall not apply to a taxpayer taxed
62 under the preceding section and engaged exclusively in
63 business within this state.

CHAPTER 87

(House Bill No. 46—By Mr. Hansbarger)

AN ACT to amend and reenact sections two, ten, eleven and seventeen, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to a general consumers sales and service tax.

[Passed March 10, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

2. Definitions.
10. Tax paid by a consumer.
11. Seller shall not pay tax; penalty.
17. Lien of tax; penalties; recording.

Be it enacted by the Legislature of West Virginia:

That sections two, ten, eleven and seventeen, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 2. *Definitions.*—For the purpose of this article:

- 2 (1) "Persons" shall mean any person, firm, partner-
- 3 ship, association, corporation, guardian, or committee;
- 4 (2) "Tax commissioner" shall mean the state tax com-
- 5 missioner;
- 6 (3) "Gross proceeds" shall mean the amount received in
- 7 money, credits, property or other consideration from
- 8 sales at retail within this state, without deduction on ac-
- 9 count of the cost of the property sold, amounts paid for
- 10 interest or discounts or other expenses whatsoever. Losses
- 11 shall not be deducted, but any credit or refund made for
- 12 goods returned may be deducted;
- 13 (4) "Sales at retail" shall mean any transaction by
- 14 which the ownership of tangible personal property is

15 transferred for a consideration, when the transfer is made
16 in the ordinary course of the transferor's business and
17 is made to the transferee for consumption or use or any
18 other purpose, except resale in its original form without
19 change or processing. "Sale at retail" includes conditional
20 sales and transactions under whatever name whereby title
21 is ultimately to pass, but presently retained for security.
22 "Sale at retail" shall not include an isolated transaction
23 in which any tangible personal property is sold, trans-
24 ferred, offered for sale, or delivered by the owner thereof,
25 or by his representative for the owner's account, such
26 sales, transfer, offer for sale or delivery not being made
27 in the ordinary course of repeated and successive trans-
28 actions of a like character by such owner or on his account
29 by such representative;

30 (5) "Retail dealer" shall mean a person engaged in
31 the business of sale at retail, or one who furnishes serv-
32 ices taxed by this article, in this state, to the ultimate
33 consumer;

34 (6) "Wholesale dealer" shall mean a person engaged
35 in this state in the business of selling tangible personal
36 property or furnishing services to retail dealers for re-
37 sale only; but such person, when sales are made for per-
38 sonal consumption or use, shall, with respect to such sales,
39 be classified as a "retail dealer"; and the fact that the pur-
40 chaser has a store license shall not exempt him from paying
41 the tax on the retail value of the goods or services bought
42 unless he is a bona fide retail dealer of such goods or
43 services. The term "wholesale dealer" shall also include
44 any person engaged in this state in the business of selling
45 machinery, supplies and materials in wholesale quantities,
46 or of furnishing services to churches, incorporated chari-
47 table organizations, contractors, or to persons engaged in
48 the business of manufacturing, transportation, transmis-
49 sion, communication, or in the production of natural re-
50 sources in this state: *Provided, however,* That this ex-
51 emption shall not apply to fraternal or social organiza-
52 tions, nor to charitable organizations which charge for
53 services rendered;

54 (7) "Ultimate consumer" shall mean a person who

55 uses or consumes services or personal property for the
56 immediate satisfaction of human desires or requirements,
57 distinguished from services and goods, used or consumed
58 in connection with the conduct of the business of pro-
59 ducing or selling personal property or dispensing a serv-
60 ice taxable under this article;

61 (8) "Business" shall include all activities engaged in
62 or caused to be engaged in with the object of gain or
63 economic benefit, direct or indirect;

64 (9) "Tax" shall include all taxes, interest or penalties
65 levied hereunder;

66 (10) "Purchaser" shall mean a person who purchases
67 tangible personal property or a service taxed by this
68 article;

69 (11) "Service, or selected service" shall include all
70 nonprofessional activities engaged in for other persons
71 for a consideration, which involve the rendering of a
72 service as distinguished from the sale of tangible prop-
73 erty, but shall not include personal services or the serv-
74 ices rendered by an employee to his employer or any
75 service rendered for resale.

76 (12) "Personal service" shall include those:

77 (a) Compensated by the payment of wages in the ordi-
78 nary course of employment;

79 (b) Rendered to the person of an individual without,
80 at the same time, selling tangible personal property or
81 the use of such property, such as nursing, barbering, shoe
82 shining, manicuring, and similar services;

83 (13) "Taxpayer" shall mean a retail dealer.

Sec. 10. *Tax Paid by a Consumer.*—It is the intent of this
2 article that the tax levied hereunder shall be passed on to
3 and be paid by the ultimate consumer. The amount of the
4 tax shall be added to the sales price, and shall constitute a
5 part of that price and be collectible as such.

Sec. 11. *Seller Shall Not Pay Tax; Penalty.*—A person
2 engaged in any business taxable hereunder shall not ad-
3 vertise or hold out to the public, in any manner, directly
4 or indirectly, that he will absorb all or any part of the
5 tax, or that the tax imposed by this article is not to be

6 considered an element in the price to the ultimate con-
7 sumer. A person who violates this provision shall be
8 guilty of a misdemeanor, and upon conviction shall be
9 punishable by a fine of not less than fifty, nor more than
10 one thousand dollars, or imprisonment in the county jail
11 for not exceeding one year, or both, in the discretion of
12 the court.

Sec. 17. *Lien of Tax; Penalties; Recording.*—A tax due
2 and unpaid under this article shall be a debt due the state.
3 It shall be a personal obligation of the taxpayer and shall
4 be a lien upon all the property of the taxpayer, provided
5 no such lien shall be enforceable against a purchaser
6 (including lien creditors) for valuable consideration with-
7 out notice, unless it be docketed in the office of the clerk
8 of the county court in the county wherein such property
9 is located before a deed of trust, or bill of sale therefor
10 to such purchaser is delivered for record to the clerk of
11 the county court of such county.

12 The taxpayer who fails to file his return and remit the
13 tax at the time required by this article, shall in addition
14 to all other penalties pay a penalty of six per cent of the
15 amount of the tax collected during the period reported,
16 and for each succeeding thirty days elapsing before the
17 payment there shall be added an additional penalty of
18 one per cent. If the taxpayer is an association, or corpora-
19 tion, the officers thereof, whose duty it is to make the re-
20 turn and pay the tax, shall be personally liable, jointly
21 and severally, for any default on the part of the corpora-
22 tion.

CHAPTER 88

(House Bill No. 379—By Mr. LaFollette)

AN ACT to amend article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred

forty-one, by adding thereto a new section to be numbered fifty-six, relating to disposition of sheriff's lists and sale of real estate for taxes.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Fund.

Section

56. Disposition of forfeited and delinquent lands in event chapter eleven-a of the code be held unconstitutional.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended by adding thereto a new section to be numbered fifty-six, to read as follows:

- Section 56. *Disposition of Forfeited and Delinquent Lands in Event Chapter Eleven-a of the Code Be Held Unconstitutional.*—In the event any part of this chapter be declared to be unconstitutional to the end that the state can not adequately dispose of real estate which is delinquent for nonpayment of taxes, forfeit for nonentry, waste and unappropriated, escheated, or purchased by the state whether redeemed or unredeemed and subject to sale for the benefit of the school fund or which may have been certified to and is now in the hands of the auditor, the auditor shall complete his compilation of such lands from any appropriations now or hereafter made for the purpose and shall hold the same pending future directions and an enactment of statutes by the Legislature respecting the disposition thereof, and the auditor in such event shall direct any and all deputy commissioners to recertify to him any lands which may be in their hands for disposal.

CHAPTER 89

(House Bill No. 213—By Mr. Jackson)

AN ACT to amend and reenact sections four, thirteen and seventeen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and sections one, seven, nineteen and twenty-two, article fourteen, chapter eleven of the code, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to gasoline tax.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 14. Gasoline Tax.

Section

1. Definitions: Gasoline, person, company, distributor, retail dealer, importer, sale, purchase and motor vehicles.
4. Distributor's monthly statement; payment of tax.
7. Transporting gasoline; delivery prohibited in certain cases; penalties; enforcement of article by employees of gasoline tax department.
13. Failure or refusal to make statement or pay tax; penalty.
17. Status of tax accrued and unpaid; embezzlement thereof; bond indemnifying state against loss; tax commissioner may require a surety bond.
19. Refund for gasoline exported or lost.
22. Taxes to be used for road purposes.

Be it enacted by the Legislature of West Virginia:

That sections four, thirteen and seventeen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and sections one, seven, nineteen and twenty-two, article fourteen, chapter eleven of the code, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

- Section 1. *Definitions: Gasoline, Person, Company, Distributor, Retail Dealer, Importer, Sale, Purchase and Motor Vehicles.*—When used in this article: The term “gasoline” shall include any substance or combination of

5 substances which is capable of use as a motor fuel for any
6 internal combustion engine, except fuel oil, kerosene,
7 cleaner's solvent, and any other liquid petroleum pro-
8 duct not commonly used as a motor fuel, when not used
9 or sold for use as a motor fuel in an internal combustion
10 engine;

11 The term "person" or the term "company" shall in-
12 clude any individual, firm, copartnership, joint adven-
13 ture, association, corporation, trust, and any other group
14 or combination acting as a unit, and the plural as well
15 as the singular number, unless the intention to give a
16 more limited meaning is disclosed by the context, and
17 when used in connection with the penalties imposed by
18 this article, shall mean and include the officers, directors,
19 trustees, or members of any firm, copartnership, joint
20 adventure, association, corporation, trust, or any other
21 group acting as a unit;

22 The term "distributor" shall mean and include every
23 person who refines, produces, manufactures, compounds,
24 or blends gasoline in this state for use or for sale to
25 jobbers or consumers, and every person who is now en-
26 gaged, or who may hereafter engage, in his own name
27 or in the name of his representative or agent in this
28 state, in the selling of gasoline for the purpose of resale
29 or distribution; and persons operating tank wagons into
30 this state from places of business located outside this
31 state and selling gasoline in quantities as desired by
32 purchasers in this state without definite orders having
33 been placed prior to the delivery of the product, shall
34 be deemed distributors in this state;

35 The term "retail dealer" shall mean and include any
36 person not a distributor who sells gasoline in this state to
37 consumers only;

38 The term "importer" shall mean any person who pur-
39 chases or obtains gasoline outside this state and uses
40 the same within the state;

41 The term "sale" shall include any exchange, gift, or
42 other disposition, and "purchase" shall include any ac-
43 quisition of ownership;

44 The term "motor vehicle" shall mean automobiles, mo-
45 tor trucks and motorcycles, and shall include all other

46 vehicles, engines or machines which are operated or pro-
47 pelled by combustion of gasoline.

Sec. 4. *Distributor's Monthly Statement; Payment of*
2 *Tax.*—Every distributor selling gasoline in this state shall,
3 within thirty days after the close of each month, trans-
4 mit to the tax commissioner a statement, verified by oath
5 or affirmation, on such forms as the tax commissioner
6 shall prescribe, of all gasoline refined, produced, com-
7 pounded, purchased and received, sold, distributed or
8 used by such distributor during the month to be cov-
9 ered, and if any of the gallonage received by such dis-
10 tributor had not previously been included in the measure
11 of tax under the provisions of this article, he shall at
12 the same time pay to the tax commissioner the amount of
13 tax due for such month: *Provided, That* all gallonage
14 furnished by any distributor to any of its service sta-
15 tions in this state shall be deemed to have been sold
16 and shall be treated and considered, in computing the
17 tax, in the same manner as though the same had been
18 sold to retail dealers or to other persons.

19 Such statement shall also contain full details as to each
20 sale made, including the gallonage of gasoline shipped
21 from points without West Virginia direct to customers or
22 consignees in West Virginia; the name and address of each
23 purchaser; the date of each shipment or delivery; the
24 point from which shipped or delivered; the point to
25 which shipped or delivered; the quantity of each ship-
26 ment or sale; the number and initials of the car in which
27 shipped if shipped by rail; the name of the boat or barge
28 if shipped by water; or if delivered by other means, the
29 method of delivery. The statement shall also accurately
30 show the gallonage purchased or received by such dis-
31 tributor during the month; the date each quantity was
32 received; the point from which shipped or delivered; the
33 point at which received; the name and address of the
34 person from whom purchased or obtained; the quantity
35 of each purchase; the number and initials of the car if
36 shipped by rail; the name of the boat or barge if shipped
37 by water; or if delivered by other means, the method
38 of delivery. The statement shall also contain any ad-

39 ditional information the tax commissioner may deem
40 necessary for the proper ascertainment and assessment
41 of the tax.

42 If any distributor is unable to furnish the informa-
43 tion called for above, he shall report the quantity of
44 gasoline purchased or obtained during the month and, if
45 any such gasoline had not previously been included in
46 the measure of tax under the provisions of this article,
47 he shall pay the amount of tax due thereon.

Sec. 7. *Transporting Gasoline; Delivery Prohibited in*
2 *Certain Cases; Penalties; Enforcement of Article by Em-*
3 *ployees of Gasoline Tax Department.*—Any person trans-
4 porting gasoline upon the public highway, except li-
5 censed distributors, shall carry either an invoice, sales
6 memorandum, or waybill, designating the name of the
7 seller, purchaser or consignee, and point of delivery of
8 the gasoline being transported. Any person violating any
9 of the provisions of this section shall be guilty of a mis-
10 demeanor, and shall, upon conviction thereof, be sen-
11 tenced to pay a fine of not less than five dollars nor more
12 than one hundred dollars.

13 The delivery of gasoline from a tank truck to the tank
14 of a motor vehicle is prohibited, except in cases of emerg-
15 ency. Any person violating the provisions of this section
16 shall be fined not more than fifty dollars, or confined in
17 jail not more than thirty days, or both, in the discretion
18 of the court. Any employee of the gasoline tax depart-
19 ment so designated by the tax commissioner, shall have
20 all the lawful powers delegated to members of the de-
21 partment of public safety to enforce the provisions of this
22 article in any county or city of this state, and such em-
23 ployee shall, before entering upon the discharge of his
24 duties, execute a bond with security in the sum of thirty-
25 five hundred dollars, payable to the state of West Vir-
26 ginia, conditioned for the faithful performance of his
27 duties as such, and such bond shall be approved as to
28 form by the attorney general, and as to sufficiency by the
29 board of public works, and the same shall be filed with
30 the secretary of state and preserved in his office.

Sec. 13. *Failure or Refusal to Make Statement or Pay Tax; Penalty.*—If any distributor, retail dealer or importer fail, neglect or refuse to make any statement required for any month, or to pay the excise tax due for any month, within the time prescribed for the filing of such statement or the payment of such tax, there shall automatically accrue a penalty equal to one-tenth of one cent on each gallon of gasoline on which the excise tax is due and payable in that period, or on each gallon purchased during that month if no excise tax is due, the amount of which penalty shall in no case be less than five dollars (or if no sales or purchases were made, a penalty of five dollars), such penalty to be paid or collected in the same manner as the tax imposed by this article is required to be paid or collected.

The tax commissioner shall notify any distributor, retail dealer, or importer, that fails, neglects or refuses to make any statement required for any month within the time prescribed for the filing of such statement, or the payment of such tax, of such failure, and if the required statement is not filed or payment of tax is not made within ten days from the date of such notification, there shall automatically accrue a penalty equal to one cent on each gallon of gasoline on which the excise tax is due and payable in that period or on each gallon purchased during that month if no excise tax is due, the amount of which penalty shall in no case be less than twenty-five dollars (or if no sales or purchases were made, a penalty of twenty-five dollars), such penalty to be paid or collected in the same manner as the tax imposed by this article is required to be paid or collected.

Sec. 17. *Status of Tax Accrued and Unpaid; Embezzlement Thereof; Bond Indemnifying State Against Loss; Tax Commissioner May Require a Surety Bond.*—The excise tax imposed in this article, when accrued and while in the hands of the distributor, retail dealer, or importer, shall be the property of the state of West Virginia held in trust. If any person shall wilfully fail to pay the tax to the tax commissioner as provided in this article, he shall be guilty of embezzlement of funds, the

10 property of the state of West Virginia, and upon conviction,
11 he shall be confined in the penitentiary not less than
12 one nor more than five years. Further, in any case where
13 it shall be deemed necessary by the tax commissioner, the
14 tax commissioner is authorized to require any distributor,
15 retail dealer or importer to deposit with the tax commissioner
16 a surety bond, to be approved by the tax commissioner
17 as to the sufficiency and by the attorney general
18 as to form, indemnifying the state against any loss arising
19 from the failure of the distributor, retail dealer or
20 importer to pay the excise tax for any cause whatsoever.
21

Sec. 19. *Refund for Gasoline Exported or Lost.*—Any
2 distributor who shall export gasoline from West Virginia
3 to any other state or nation, may be refunded a sum
4 equal to the amount of such excise tax paid on such gallonage
5 upon application made on proper forms to the
6 tax commissioner within thirty days after the close of
7 the month in which such gasoline was exported. Any distributor,
8 who shall in the conduct of his wholesale gasoline
9 business, sustain losses of gasoline by reason of shrinkage
10 or evaporation, which gasoline shall have been included in
11 the measure by which the excise tax imposed by this article
12 is determined, shall be refunded a sum equal to the
13 amount of such excise tax on the gallonage lost, not to
14 exceed one and one-half per cent of the gallonage
15 handled during that month which has been previously included
16 in the measure by which the excise tax imposed by
17 this article is determined: *Provided, however,* That the tax
18 commissioner shall cause refund to be made under authority
19 of this section only when application for refund, as
20 herein provided, is filed with the tax commissioner within
21 thirty days after the close of the month during which the
22 gasoline was exported or lost, on forms prescribed by the
23 tax commissioner, of the quantity of and full details concerning
24 such gasoline exported or lost.

25 Every distributor shall be entitled to a refund from the
26 state of West Virginia of the amount of gasoline tax paid
27 by him, on any gasoline lost or destroyed, while he shall
28 be the owner thereof, through fire, lightning, breakage,

29 or flood: *Provided, however,* That such distributor shall
30 notify the tax commissioner in writing of such loss or
31 destruction, and the amount of gasoline lost or destroyed,
32 within ten days from the date of the discovery of such
33 loss or destruction: *Provided further,* That within thirty
34 days after the discovery of such loss or destruction such
35 distributor shall file with the tax commissioner an affi-
36 davit sworn to by him, setting forth in full the circum-
37 stances and amount of the loss or destruction, and such
38 other information with respect thereto as the tax com-
39 missioner may require.

Sec. 22. *Taxes to Be Used for Road Purposes.*—All
2 taxes collected under the provisions of this article shall
3 be paid into the state treasury and shall be used only for
4 the purpose of the construction, reconstruction, mainte-
5 nance and repair of roads and highways, and for the pay-
6 ment of the interest and sinking fund on state bonds
7 issued for road purposes. Unless necessary for such bond
8 requirements, one-fifth of the taxes collected under the
9 provisions of this article shall be used for secondary road
10 purposes until July first, one thousand nine hundred
11 forty-five.

CHAPTER 90

(Senate Bill No. 172—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section nine, article fifteen,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to exemp-
tions of commodities under the consumers sales tax.

[Passed March 6, 1943; in effect July 1, 1943. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

9. Sales not included.

Be it enacted by the Legislature of West Virginia:

That section nine, article fifteen, chapter eleven of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 9. *Sales Not Included.*—The provisions of this

2 article shall not apply to:

3 (1) Sales of gasoline, taxable under article fourteen,
4 chapter eleven of the code, one thousand nine hundred
5 thirty-one;

6 (2) Sales of gas, steam and water delivered to con-
7 sumers through mains or pipes, and sales of electricity;

8 (3) Sales of school books required to be used in any
9 of the schools of this state;

10 (4) Sales to the state, its institutions or subdivisions,
11 and sales to the United States, including sales to agencies
12 of federal, state or local governments for distribution in
13 public welfare or relief work;

14 (5) Sales on motor vehicles which are titled by the
15 state road commission;

16 (6) Sales at retail, of bread, pastries, eggs, butter, flour,
17 milk, coffee, tea, chocolate, cocoa, nuts, fruits, groceries,
18 vegetables and meats, as food products for human con-
19 sumption, the total retail price of any or all of which said
20 food products does not exceed fifty cents when purchased
21 as any one continuing transaction. An absolute exemp-
22 tion of fifty cents shall be deducted from the total of
23 any such purchase, and the exemption of five cents as
24 provided in section three of this article shall be included
25 in and be a part of the absolute exemption of fifty cents
26 as herein provided.

27 "Milk" shall mean raw milk as produced from domestic
28 animals or such milk when processed or canned for
29 human consumption, but shall not include flavored mix-
30 tures and similar products.

31 "Groceries" shall mean all food products and all food
32 ingredients for human consumption or for use in the
33 preparation thereof for human consumption, ordinarily
34 sold at grocery stores, but shall not be construed to in-
35 clude candies, confections, tobacco, tobacco products, beer,
36 ale, soft drinks or beverages of like nature.

37 "Meats" shall include fish, sea foods, poultry and game.

38 The exceptions and exemptions herein contained shall

39 not apply when any of the above products are sold by
40 hotels, restaurants, or any like dispensers of food or
41 drink.

CHAPTER 91

(House Bill No. 260—By Mr. Hansbarger)

AN ACT to amend and reenact section twelve, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the form of receipts for real estate taxes.

[Passed March 11, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 1. Collection and Enforcement of Property Taxes.

Section

12. Receipt for taxes; furnishing and posting statement of tax levies.

Be it enacted by the Legislature of West Virginia:

That section twelve, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 12. *Receipt for Taxes; Furnishing and Posting*

2 *Statement of Tax Levies.*—The sheriff or his deputy shall
3 deliver to the person paying any taxes a written or
4 printed receipt therefor, and shall retain for his records
5 the stub or duplicate of such receipt. The receipt and the
6 stub or duplicate shall specify the number of capitations;
7 the total value of personal property; the number of acres
8 of land, and the number of town lots, with the valuation of
9 each tract or lot separately charged; and shall show the
10 total amount of the aggregate tax paid for state, school,
11 county, municipal, district, and any other purpose for

12 which levied. The officer receiving payment shall sign
13 each receipt in his own handwriting. The sheriff shall fur-
14 nish to each taxpayer a statement showing the levies laid
15 for each class of taxable property in each taxing district of
16 the county when requested so to do by the taxpayer. The
17 sheriff shall cause a statement of the levies, as aforesaid,
18 to be posted at the front door of the courthouse and at
19 two conspicuous places in his office, but failure to post
20 such statement shall in nowise affect the rights of the
21 state, or any of its agencies, to collect such taxes. The
22 tax commissioner may prescribe uniform tax statements
23 and receipts, not inconsistent herewith, for use in all the
24 counties of the state.

CHAPTER 92

(Senate Bill No. 67—By Mr. Boreman)

AN ACT to amend and reenact section twelve, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, creating a lien for nonpayment of business or occupational tax.

[Passed March 13, 1943: in effect ninety days from passage. Approved by the Governor.]

Article 13. Business and Occupation Tax.

Section

12. Lien of tax due and unpaid.

Be it enacted by the Legislature of West Virginia:

That section twelve, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 12. *Lien of Tax Due and Unpaid.*—A tax due
2 and unpaid under this article shall be a debt due the state.
3 It shall be a personal obligation of the taxpayer and shall
4 be a lien upon the property used in the business or occu-
5 pation upon which such tax is imposed: *Provided*, That no

6 such tax lien shall be enforceable against a purchaser (in-
7 cluding lien creditor) for valuable consideration with-
8 out notice, unless docketed in the office of the county
9 court in the county wherein such property is located
10 before a deed therefor to such purchaser is delivered for
11 record to the clerk of the county court of such county.

12 A penalty of five per cent of the tax shall be added for
13 any default for thirty days or less, and for each succeeding
14 thirty days elapsing before payment there shall be an ad-
15 ditional penalty of one per cent, all of which penalties
16 shall be secured by the lien herein provided.

CHAPTER 93

(Com. Sub. for House Bill No. 182—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend and reenact section eleven, article eleven,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as last amended and reenacted
by chapter thirty-six, acts of the Legislature, first extra-
ordinary session, one thousand nine hundred thirty-three,
relating to payment and collection of inheritance taxes.

[Passed March 3, 1943; in effect from passage. Approved by the Governor.]

Article 11. Inheritance and Transfer Taxes.

Section

11. Payments and collection.

Be it enacted by the Legislature of West Virginia:

That section eleven, article eleven, chapter eleven of the
code of West Virginia, one thousand nine hundred thirty-one,
as last amended and reenacted by chapter thirty-six, acts of
the Legislature, first extraordinary session, one thousand nine
hundred thirty-three, be amended and reenacted to read as
follows:

Section 11. *Payments and Collection.*—All taxes im-

2 posed by this article shall be due and payable at the
3 death of the transferor, and if paid within eleven months
4 after the death of the transferor a discount of three per
5 cent shall be allowed and deducted. If not paid within
6 twelve months after the death of the transferor, taxes
7 due under this article shall bear interest at the rate of
8 ten per cent per annum, to be computed from the ex-
9 piration of twelve months from the date of the death
10 of the transferor until paid, and a penalty of five per
11 cent shall be added. The tax commissioner may suspend
12 payment of such taxes, penalties and interest if there be
13 necessary litigation pending at the time such taxes are
14 due and payable, which involves the estate, or for other
15 good and sufficient cause. Suits and actions brought for
16 the purpose of defeating the payment of any such taxes,
17 penalties and interest, shall not be deemed necessary
18 litigation within the meaning of this section.

CHAPTER 94

(Com. Sub. for Senate Bill No. 68—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to penalties and forfeitures for failure to return property for taxation.

[Passed March 13, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 3. Assessments Generally.

Section

10. Failure to list property, etc.; collection of penalties and forfeitures.

Be it enacted by the Legislature of West Virginia:

That section ten, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 10. *Failure to List Property, Etc.; Collection of*

2 *Penalties and Forfeitures.*—If any person, firm or corpora-
3 tion, including public service corporations whose duty it is
4 by law to list any real estate or personal property for
5 taxation, shall refuse to furnish a proper list thereof or
6 refuse to furnish a list within the time required by law,
7 or to make such oath as required by this chapter; or if any
8 person, firm or corporation, including public service cor-
9 porations, shall refuse to answer or shall answer falsely
10 any question asked by the assessor or by the tax com-
11 missioner, or shall fail or refuse to deliver any statement
12 required by law, he or it shall forfeit not less than twenty-
13 five nor more than one hundred dollars, and shall be
14 denied all remedy provided by law for the correction of
15 any assessment made by the assessor or by the board of
16 public works. If any person, firm or corporation, including
17 public service corporations, required by law to make re-
18 turn of property for taxation, whether such return is to
19 be made to the assessor, the board of public works, or any
20 other assessing officer or body, fails to return a true list
21 of all property which should be assessed in this state, in-
22 cluding money, notes, bonds, bills and accounts receivable,
23 stocks and any other intangible personal property, such
24 person, firm or corporation, in addition to all other penal-
25 ties provided by law, shall forfeit two per cent of
26 the value of the property not yet returned and not other-
27 wise taxed in this state. A forfeiture as to all property
28 aforesaid may be enforced for any such default occurring
29 in any year not exceeding five years immediately prior
30 to the time the same is discovered, but no liability to
31 penalty or forfeiture as to moneys, notes, bonds, bills and
32 accounts receivable, stocks and other intangible personal
33 property arising prior to the first day of January, nineteen
34 hundred thirty-three, shall be enforceable on behalf of the
35 state or of any of its subdivisions. Each failure to make a
36 true return as herein required shall constitute a separate
37 offense, and a forfeiture shall apply to each of them, but
38 all such forfeitures, to which the same person, firm or
39 corporation is liable, shall be enforced in one proceeding
40 against such person, firm or corporation, or against the
41 estate of any deceased person, and shall not exceed ten
42 per cent of the value of the property not returned. The

43 state tax commissioner shall collect such forfeitures with-
44 out suit, but if unable so to do, shall instruct the prose-
45 cuting attorney of the county in which the defaulting
46 taxpayer resides or has its principal office, or in which
47 such property should have been returned for taxation, to
48 enforce collection. It shall thereupon be the duty of such
49 prosecuting attorney to institute and prosecute proceed-
50 ings in the name of the state of West Virginia against
51 the defaulting taxpayer, or, in case of a decedent, against
52 his personal representative, in the circuit court upon
53 motion, whereof the defendant shall have at least twenty
54 days' notice. Either party shall have the right to have
55 the issue tried by jury, and the state, as well as the de-
56 fendant, shall have the right to an appeal. Ten per cent
57 of the amount collected and an attorney's fee of ten dol-
58 lars to be taxed as a part of the cost shall be collected
59 and paid over by the prosecuting attorney to the sheriff
60 of the county and by him credited to the general county
61 fund. No special counsel shall be employed to institute
62 or conduct such suits. Any prosecuting attorney failing
63 or refusing to perform the duties required of him by this
64 section shall forfeit the sum of one hundred dollars to be
65 recovered against him by the state tax commissioner in
66 the name of the state of West Virginia upon twenty days'
67 notice by motion in any court having jurisdiction. The
68 amount collected in any such suit after deducting ten per
69 cent as aforesaid, or the entire sum if collected by the tax
70 commissioner without suit, shall be paid over to the
71 sheriff of the proper county and his receipt taken therefor.
72 The sheriff shall apportion such fund among the state,
73 county, district, school district, and municipalities which
74 would have been entitled to the taxes upon such prop-
75 erty if it had been assessed in proportion to the rates
76 of taxation for each such levying unit for the year in
77 which the judgment was obtained bears to the sum of
78 the rates for all. When the list of property returned by
79 the appraisers of the estate of any deceased person shows
80 an amount greater than the last assessment list of such
81 deceased person next preceding the appraisal of his
82 estate, it shall be prima facie evidence that such deceased
83 person returned an imperfect list of his property: Pro-

84 *vided, however,* That any person liable for the tax of his
85 personal representative, may always be permitted to
86 prove by competent evidence that the discrepancy be-
87 tween such assessment list and the appraisal of the estate
88 is caused by a difference of valuation returned by the
89 assessor and that made by the appraisers of the same
90 property or by property acquired after assessment, or
91 that any property enumerated in the appraisers' list
92 had been otherwise listed for taxation, or that it was not
93 liable for taxation. Any judgment recovered under this
94 section shall be a lien, from the time of the service of the
95 notice, upon all real estate and personal property of
96 such defaulting taxpayer, owned at the time or subse-
97 quently acquired, in preference to any other lien.

CHAPTER 95

(Senate Bill No. 170—Originating in the Senate Committee on Finance)

AN ACT to amend article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections designated sections five-b and five-c, and to amend article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section three, and by adding thereto a new section designated section three-b, relating to privilege and business and occupation taxes.

[Passed March 6, 1943; in effect July 1, 1943. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Article

12-a. Privilege Tax on Certain Carrier Corporations.

13. Business and Occupation Tax.

Be it enacted by the Legislature of West Virginia:

That article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding two new sections thereto designated sections five-b and five-c, and that article thirteen, chapter

eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section three, and by adding thereto a new section designated section three-b, all to read as follows:

Article 12-a. Privilege Tax on Certain Carrier Corporations.

Section

5-b. Reduction of taxes; definitions.

5-c. Exemption.

Section 5-b. *Reduction of Taxes; Definitions.*—When used in this section the phrase “normal tax” shall mean the tax computed by the application of rates against intrastate gross income, pro-rated gross income, assessed value of all property in West Virginia, and by pro-rated net income as set forth in sections two, three, four or five, inclusive, of this article.

When used in this section the term “surtax” shall mean the tax computed by the application of the tax rate as set forth in section five-a of this article.

When used in this section the phrase “total net balance of taxes due” shall mean the total of the normal tax and surtax less exemption at the rate of fifty dollars annually or at the rate of four dollars and sixteen cents per month for the period actually engaged in business.

For the period commencing July one, one thousand nine hundred forty-three, and thereafter, a reduction of ten per cent of the total net balance of taxes due is allowed. The normal tax shall be computed by the application of rates against intrastate gross income, pro-rated gross income, assessed value of all property in West Virginia, and by pro-rated net income as set forth in sections two, three, four or five, inclusive, of this article. The surtax shall be computed by the application of the tax rate as set forth in section five-a of this article. The total net balance of taxes due shall be reduced by the ten per cent credit allowed herein. The total net balance of taxes due reduced by the ten per cent credit is the amount of tax payable.

Sec. 5-c. *Exemption.*—There shall be an exemption in every case of fifty dollars in amount of tax computed under the provisions of this article. A person exercising a

4 privilege taxable hereunder for a fractional part of a
5 tax year shall be entitled to an exemption of the sum
6 bearing the proportion to fifty dollars that the period of
7 time the privilege is exercised bears to a whole year.
8 Only one exemption shall be allowed to any one person,
9 whether he exercises one or more privileges taxable
10 hereunder.

Article 13. Business and Occupation Tax.

Section

3. Exemptions; non-exempt businesses.

3-b. Reduction of taxes; definitions.

Section 3. *Exemptions; Non-exempt Businesses.*—There
2 shall be an exemption in every case of fifty dollars
3 in amount of tax computed under the provisions of this
4 article. A person exercising a privilege taxable hereunder
5 for a fractional part of a tax year shall be entitled to an
6 exemption of the sum bearing the proportion to fifty dol-
7 lars that the period of time the privilege is exercised
8 bears to a whole year. Only one exemption shall be
9 allowed to any one person, whether he exercises one or
10 more privileges taxable hereunder.

11 The provisions of this article shall not apply to: (a) In-
12 surance companies which pay the state of West Virginia
13 a tax upon premiums: *Provided, however,* That said ex-
14 emption shall not extend to that part of the gross income
15 of insurance companies which is received for the use of
16 real property, other than property in which any such
17 company maintains its office or offices, in this state,
18 whether such income be in the form of rentals or royal-
19 ties; (b) persons engaged in the business of banking:
20 *Provided, however,* That said exemption shall not ex-
21 tend to that part of the gross income of such persons
22 which is received for the use of real property owned,
23 other than the banking house or building in which the
24 business of the bank is transacted, whether such income
25 be in the form of rentals or royalties; (c) non-profit ceme-
26 tery companies organized and operated for the exclusive
27 benefit of their members; (d) societies, organizations and
28 associations organized and operated for the exclusive
29 benefit of their members and not for profit; (e) corpora-
30 tions, associations and societies organized and operated

31 exclusively for religious or charitable purposes: *Pro-*
32 *vided, however*, That the exemptions of this section shall
33 not apply to corporations or cooperative associations or-
34 ganized under the provisions of article four, chapter nine-
35 teen of the code of West Virginia, one thousand nine
36 hundred thirty-one, as amended; (f) building and loan
37 associations and federal savings and loan associations.

Sec. 3-b. *Reduction of Taxes; Definitions.*—When used
2 in this section the phrase “normal tax” shall mean the
3 tax computed by the application of rates against values
4 or gross income as set forth in sections two-a to two-j
5 inclusive, of this article.

6 When used in this section the term “surtax” shall mean
7 the tax computed by the application of the tax rate as set
8 forth in section three-a of this article.

9 When used in this section the phrase “total net balance
10 of taxes due” shall mean the total of the normal tax in
11 those classifications under which only a normal tax is
12 imposed, and the total of the normal tax and the surtax
13 in those classifications under which both a normal tax and
14 surtax is imposed, and the combined total of all taxes
15 when the tax return shows taxes due under more than
16 one classification as set forth in sections two-a to two-j,
17 inclusive, of this article, and section three-a of this
18 article less exemption at the rate of fifty dollars annually
19 or at the rate of four dollars and sixteen cents per month
20 for the period actually engaged in business.

21 For the period commencing July one, one thousand
22 nine hundred forty-three, and thereafter, a reduction of
23 ten per cent of the total net balance of taxes due is
24 allowed. The normal tax shall be computed by the appli-
25 cation of rates against values or gross income as set forth
26 in sections two-a to two-j, inclusive, of this article. The
27 surtax shall be computed by the application of the tax
28 rate as set forth in section three-a of this article. The
29 total net balance of taxes due shall be reduced by the
30 ten per cent credit allowed herein. The total net
31 balance of taxes due reduced by the ten per cent credit
32 is the amount of the tax payable.

CHAPTER 96

(House Bill No. 2—By Mr. Speaker, Mr. Amos, and Mr. Davis)

AN ACT to repeal chapter eighty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, designated as article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred eleven, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, as amended and reenacted by chapter one hundred twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and as amended by chapters one hundred twenty-one and one hundred twenty-two, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to personal income taxes; making such repeal effective with respect to income earned, received, or accrued during the calendar year one thousand nine hundred forty-two, and providing methods for the computation of taxes due, and refund of taxes paid, on account of income earned or received by, or accrued to taxpayers making returns on a fiscal year basis when such fiscal year ended during the calendar year one thousand nine hundred forty-two.

[Passed February 3, 1943; in effect from passage. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Repeal of Personal Income Tax Law.

Section

1. General purposes of act.
2. Personal income tax law repealed.
3. Law retained for years prior to 1942.
4. Refund of taxes paid prior to effective date of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. *General Purposes of Act.*—The purpose of this
2 act is to repeal the provisions of the personal income tax
3 act of the state of West Virginia, as last amended, for all
4 taxable years commencing on and after January first, one
5 thousand nine hundred forty-two, but to continue in force
6 and effect all of the provisions of said act with respect to
7 all prior taxable years.

Sec. 2 *Personal Income Tax Law Repealed.*—Chapter eighty-nine, acts of the Legislature of West Virginia, one thousand nine hundred thirty-five, designated as article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter one hundred eleven, acts of the Legislature of West Virginia, one thousand nine hundred thirty-seven, and by chapter one hundred twenty-eight, acts of the Legislature of West Virginia, one thousand nine hundred thirty-nine, and by chapters one hundred twenty-one and one hundred twenty-two, acts of the Legislature of West Virginia, one thousand nine hundred forty-one, is hereby repealed, effective from and after January first, one thousand nine hundred forty-two, except as hereinafter provided for.

Sec. 3. *Law Retained for Years Prior to 1942.*—The provisions of said chapter eighty-nine, as amended, shall remain in full force and effect for all taxable years prior to January first, one thousand nine hundred forty-two: Provided, however, That no tax shall be collected or paid upon any income earned or received during that portion of any fiscal year falling within the calendar year one thousand nine hundred forty-two.

Where any taxpayer shall be liable for personal income tax for a fiscal year ending during the calendar year one thousand nine hundred forty-two, and his tax for the said fiscal year shall not have been paid, his tax shall be computed and paid upon the basis provided in section four of this act providing for refunds in cases where taxpayers have paid personal income tax for a fiscal year rather than a calendar year.

Sec. 4. *Refund of Taxes Paid Prior to Effective Date of This Act.*—In the event any taxes on income earned, received, or accrued, during the calendar year one thousand nine hundred forty-two, shall have been paid on or after January first, one thousand nine hundred forty-three, said taxes, or a proportion thereof, as hereinafter provided, shall be refunded to the taxpayer under the provisions of section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as

10 amended by chapter one hundred twenty-nine, acts of the
11 Legislature, regular session, one thousand nine hundred
12 thirty-nine.

13 Where any taxpayer makes return and pays tax upon
14 the basis of a fiscal year rather than a calendar year, and
15 any such taxpayer shall have paid tax upon any income
16 earned, received, or accrued, after January first, one thou-
17 sand nine hundred forty-two, such taxpayer shall be en-
18 titled to a refund of a part of the tax paid. Such refund
19 shall be computed to be and shall be an amount which
20 bears the same ratio to the total tax paid for the fiscal
21 year ending during the calendar year, one thousand nine
22 hundred forty-two, as his taxable income earned, re-
23 ceived, or accrued, for the part of his said fiscal year fall-
24 ing within the calendar year one thousand nine hundred
25 forty-two, bears to his total taxable income earned, re-
26 ceived, or accrued, for his said fiscal year.

CHAPTER 97

(House Bill No. 112—By Mr. Ballard and Mr. Van Sickler)

AN ACT to amend and reenact sections one, nine and eleven, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to returns by and procedure for the assessment of the property of public service corporations for tax purposes.

[Passed February 25, 1943; in effect from passage. Vetoed by the Governor and passed by both Houses notwithstanding veto.]

Article 6. Assessment of Public Service Corporations.

Section

1. Public service corporations; returns of property to board of public works.
9. Compelling such return; procuring information and tentative assessment by tax commissioner.
11. Valuation of property by board.

Be it enacted by the Legislature of West Virginia:

That sections one, nine and eleven, article six, chapter

eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Public Service Corporations; Returns of Property to Board of Public Works.*—On or before the first day of April in each year a return in writing to the board of public works shall be delivered to the tax commissioner by the owner or operator of every railroad, wholly or in part within this state; by the owner or operator of every railroad bridge upon which a separate toll or fare is charged; by the owner or operator of every car or line of cars used upon any railroad within the state for transportation or accommodation of freight or passengers, other than such owners or operators as may own or operate a railroad within the state; by the owner or operator of every express company or express line, wholly or in part within this state, used for the transportation by steam or otherwise of freight and other articles of commerce; by the owner or operator of every pipe-line, wholly or in part within this state, used for the transportation of oil or gas or water, whether such oil or gas or water be owned by such owner or operator or not, or for the transmission of electrical or other power, or the transmission of steam or heat and power or of articles by pneumatic or other power; and by the owner or operator of every telegraph or telephone line, wholly or in part within this state, except private lines not operated for compensation; and by the owner and operator of every gas company and electric lighting company furnishing gas or electricity for lighting, heating or power purposes; and hydro-electric companies for the generation and transmission of light, heat or power; water companies furnishing or distributing water, and all other public service corporations or persons engaged in public service business whose property is located wholly or in part within this state. The words "owner or operator", as applied herein to railroad companies, shall include every railroad company incorporated by or under the laws of this state for the purpose of constructing and operating a railroad, or of operating part of a railroad within this state, whether such railroad or any part of it

39 be in operation or not; and shall also include every other
40 railroad company, or persons or associations of persons,
41 owning or operating a railroad or part of a railroad in this
42 state on which freight or passengers, or both, are car-
43 ried for compensation. The word "railroad", as used
44 herein, includes every street, city, suburban or electric
45 or other railroad, or railway. The words "owner or op-
46 erator", as applied herein to express companies, shall in-
47 clude every express company incorporated by or under
48 the laws of this state, or doing business in this state,
49 whether incorporated or not, and any person or associa-
50 tion of persons, owning or operating any express com-
51 pany or express line upon any railroad or otherwise, do-
52 ing business partly or wholly within this state. Such
53 return shall be signed and sworn to by such owner or
54 operator if a natural person, or, if such owner or oper-
55 ator shall be a corporation, shall be signed and sworn to
56 by its president, vice president, secretary or principal
57 accounting officer. The return required by this section of
58 every such owner or operator shall cover the year end-
59 ing on the thirty-first day of December, next preceding,
60 and shall be made on forms prescribed by the board of
61 public works, which board is hereby invested with full
62 power and authority and it is hereby made its duty to
63 prescribe such forms as will require from any owner or
64 operator herein mentioned such information, as in the
65 judgment of the board, may be of use to it in determin-
66 ing the true and actual value of the properties of such
67 owners or operators.

Sec. 9. *Compelling Such Return; Procuring Informa-*
2 *tion and Tentative Assessment by Tax Commissioner.—*
3 If any owner or operator fail to make such return within
4 the time required by section one of this article, it shall
5 be the duty of the tax commissioner to take such steps
6 as may be necessary to compel such compliance, and to
7 enforce any and all penalties imposed by law for such
8 failure. The return delivered to the tax commissioner
9 shall be examined by him, and if it be found insufficient
10 in form or in any respect defective, imperfect or not in
11 compliance with law, he shall compel the person required

12 to make it to do so in proper and sufficient form, and in
13 all respects as required by law. If any such owner or
14 operator fails to make such return, the tax commissioner
15 shall proceed, in such manner as to him may seem best,
16 to obtain the facts and information required to be fur-
17 nished by such returns; and to this end the tax commis-
18 sioner may send for persons and papers, and may com-
19 pel the attendance of any person and the production of
20 any paper necessary, in the opinion of said tax commis-
21 sioner, to enable him to obtain the information required
22 for the proper discharge of his duties under this section.
23 The tax commissioner shall arrange, collate and tabulate
24 such returns and all pertinent information and data con-
25 tained therein, such further evidence or information as
26 may be required by the tax commissioner of such owner
27 or operator, and all other pertinent evidence, information
28 and data he has been able to procure, upon suitable work
29 sheets, so that they may be conveniently considered, and
30 shall on or before the fifteenth day of May, lay such re-
31 turns and work sheets, together with his recommenda-
32 tions in the form of a tentative assessment of the prop-
33 erty of each such owner or operator, before the board of
34 public works. And as soon as the tax commissioner has
35 completed the preparation of such work sheets and tenta-
36 tive assessments, he shall notify the owner or operator
37 affected thereby of the amount of such tentative assess-
38 ment by written notice deposited in the United States
39 post office, addressed to such owner or operator at the
40 principal office or place of business of such owner or oper-
41 ator, and the tax commissioner shall retain in his office
42 true copies of such work sheets which shall be available
43 for inspection by any such owner or operator or his duly
44 authorized representative.

Sec. 11. *Valuation of Property by Board.*—Upon the
2 fifteenth day after giving the notices required by section
3 nine of this article, or as soon thereafter as reasonably
4 convenient but not later than the first day of June, the
5 board of public works shall proceed to assess and fix the
6 true and actual value of all property of such owner or
7 operator hereinbefore required to be returned, in each

8 county through which the railroad, car line, cars, express,
9 telegraph, telephone, or pipe-line of such owner or oper-
10 ator runs, and in which any property to be assessed is
11 located. In ascertaining such value the board shall con-
12 sider the return, if any, made by the owner or operator,
13 and any return which may have been previously made
14 by such owner or operator, the work sheets and tenta-
15 tive assessment recommended by the tax commissioner,
16 such evidence or information as may be offered by such
17 owner or operator, such further evidence or informa-
18 tion as may be required by the board of such owner or
19 operator, and any other pertinent evidence, informa-
20 tion and data, at a regular meeting of the board held
21 for such purpose at least fifteen days after giving the
22 notice required by section nine of this article. Before any
23 assessment shall be made by the board, any and all evi-
24 dence, information and data considered by the board
25 shall be available for inspection by any such owner or
26 operator or his duly authorized representative, and an
27 opportunity given to be heard thereon. When the board
28 of public works has assessed any property hereby re-
29 quired to be returned, and has determined the valua-
30 tion thereof, such assessment and valuation shall be en-
31 tered of record in the book of minutes of its proceedings,
32 and shall be certified by the secretary of the board to the
33 auditor. Nothing in this chapter contained shall be con-
34 strued to require the assessment by the board of public
35 works of any part of a railroad, telegraph, telephone or
36 pipe-line until such part is so far completed as to be fit
37 for use. But material held by any railroad, telegraph,
38 telephone or pipe-line company shall be returned to the
39 board of public works for assessment as personal prop-
40 erty. As soon as such assessment is made, the secretary
41 of the board shall notify the owner or operator affected
42 thereby of the amount thereof by written notice deposited
43 in the United States post office, addressed to such owner
44 or operator at the principal office or place of business of
45 such owner or operator. Such assessment and valuation
46 shall be final and conclusive, unless the same be appealed
47 from in the manner following, within fifteen days after
48 such notice is so deposited.

CHAPTER 98

(Senate Bill No. 211—By Mr. Allen, by request)

AN ACT to amend and reenact section six-a, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to tax levies.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 8. Levies.

Section

6-a. Levies on each classification by the board of public works; levy for interest and sinking fund on state road bonds.

Be it enacted by the Legislature of West Virginia:

That section six-a, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 6-a. *Levies on Each Classification by the Board of Public Works; Levy for Interest and Sinking Fund on State Road Bonds.*—The state board of public works shall levy for general expense purposes, including the payment of the state debt, for the state fund general revenue, as provided by section eight, as follows:

On class I property, twenty-five hundredths of one cent; on class II property, five-tenths of one cent; and on classes III and IV property, one cent.

Whenever the state board of public works finds the revenues from all sources have been or will be insufficient to meet the requirements for interest and sinking funds on state road bonds, said state board of public works shall levy for said purposes, as provided by section eight, whatever rates of levy are necessary to meet the requirements for interest and sinking funds on state road bonds issued prior to November eight, one thousand nine hundred thirty-two, which rates of levy shall be as follows:

- 19 On class I property, one cent; on class II property, two
20 cents, and on classes III and IV property, four cents, or
21 multiples thereof or in like ratio, on all property subject
22 to taxation in the state.
23 All acts, or parts of acts, in conflict with the provisions
24 of this act, are hereby repealed.

— 3 —

CHAPTER 99

(Com. Sub. for Senate Bill No. 107—Originating in the Senate Committee
on the Judiciary)

AN ACT to amend chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding a new article thereto, to be designated article ten-c, relating to the enforcement of tax liens in favor of the state of West Virginia, of political subdivisions thereof and of municipalities therein, as against purchasers of real estate and personal property for a valuable consideration, without notice; and providing for the recordation of such liens.

[Passed March 12, 1943; in effect ninety days from passage. Approved by the
Governor.]

Article 10-a. State Tax Liens.

Section

1. Recordation of liens in favor of state, subdivision or municipality.
2. Written notice of tax lien to be filed in office of county clerk; indexing; release.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding a new article thereto designated article ten-c, to read as follows:

- Section 1. *Recordation of Liens in Favor of State, Sub-*
2 *division or Municipality.*—No lien in favor of the state
3 of West Virginia, or any political subdivision thereof or of
4 any municipality therein, whether heretofore or hereafter

5 accruing, except the lien for taxes accruing under the
6 provisions of article eight, chapter eleven of the code of
7 West Virginia, one thousand nine hundred thirty-one,
8 shall be enforceable as against a purchaser (including
9 lien creditor) of real estate or personal property for a
10 valuable consideration, without notice, unless docketed, as
11 hereinafter provided, in the office of the clerk of the
12 county court of the county wherein such real estate or
13 personal property is, before a deed therefor to such pur-
14 chaser is delivered for record to the clerk of the county
15 court of such county. The term "purchaser", as used
16 herein, shall be construed to include lien creditors whose
17 liens were acquired and perfected prior to such docketing.

Sec. 2. *Written Notice of Tax Lien to Be Filed in Of-
2 fice of County Clerk; Indexing; Release.*—It shall be the
3 duty of the state tax commissioner, or the proper officers
4 of the political subdivisions of the state for such sub-
5 divisions and of the proper officers of the municipalities
6 for the municipalities, having such liens, to file a written
7 notice thereof in the office of the clerk of the county court
8 of the county in which the property of the taxpayer
9 against whom such lien is claimed, is situate, certifying in
10 said notice what amount of money is owing to the state
11 of West Virginia, the political subdivision thereof or the
12 municipality therein, on account of said lien from the tax-
13 payer owing the same; and the clerk of the county court
14 of such county shall, upon the filing of such notice, index
15 the same in the judgment or tax lien docket in his of-
16 fice as a tax lien against the said taxpayer in favor of the
17 state of West Virginia, the political subdivision thereof
18 or the municipality therein. Upon the satisfaction of such
19 lien a properly acknowledged release thereof for re-
20 cordation shall be delivered to the taxpayer by the proper
21 officer.

22 All acts or parts of acts inconsistent or in conflict here-
23 with are hereby repealed.

CHAPTER 100

(House Bill No. 211—By Mr. Hansbarger)

AN ACT to amend and reenact section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to tax on gasoline.

[Passed February 26, 1943; in effect ninety days from passage. Approved by the Governor.]

Article 14. Gasoline Tax.

Section

3. Amount, duration, measure and lien of tax; notice of discontinuance, etc., of business.

Be it enacted by the Legislature of West Virginia:

That section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred twenty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 3. *Amount, Duration, Measure and Lien of Tax;*

- 2 *Notice of Discontinuance, etc., of Business.*—There is
3 hereby imposed upon every person who is a distributor,
4 retail dealer or importer under the terms of this article, an
5 excise tax based on the quantities of all gasoline pro-
6 duced, purchased, sold or used in this state, which tax
7 shall until July first, one thousand nine hundred forty-
8 five, be equivalent to five cents per gallon thereof, and
9 shall be paid as hereinafter provided. On and after July
10 first, one thousand nine hundred forty-five, the tax herein
11 provided shall be equivalent to four cents per gallon.
12 A distributor, importer, or retail dealer shall use as
13 the measure of the tax the gallonage produced, purchased,
14 sold or used in this state (as provided in section four of
15 this article). Gallonage shall be included in the measure

16 of the tax by refiners and producers when such gallonage
17 has been placed into any tank from which withdrawals
18 are made for sales or transfer to any other person.

19 The excise tax imposed by this article shall be paid by
20 the person first producing, or receiving in this state, the
21 gallonage of gasoline which under this article shall form
22 the measure of such tax; but in no case shall any such
23 gallonage be used more than once in determining taxes
24 due hereunder. The taxes imposed by this article are in
25 addition to all other taxes now imposed by law.

26 The excise tax imposed by this article shall accrue from
27 the date of production, purchase, sale or use of the gaso-
28 line. The penalties imposed by section thirteen of this
29 article shall accrue from the date they become due and
30 payable, and such taxes and penalties shall be and re-
31 main a charge and lien upon the properties, both personal
32 and real, of the person liable to pay such taxes and penal-
33 ties, superior to any lien created after such taxes and
34 penalties accrue. Whenever a distributor, importer or
35 retail dealer ceases to engage in business within this state
36 by reason of the discontinuance, sale or transfer of the
37 business of such distributor, importer or retail dealer, it
38 shall be his duty to notify the tax commissioner in writing
39 at the time the discontinuance, sale or transfer takes
40 effect. Such notice shall give the date of discontinuance,
41 and in the event of a sale or transfer of the business, the
42 date thereof and the name and address of the purchaser
43 or transferee thereof; all taxes accruing under this article,
44 but not yet due and payable under the provisions of this
45 article, shall, notwithstanding such provisions, become
46 due and payable concurrently with such discontinuance,
47 sale or transfer, and it shall be the duty of such distribu-
48 tor, importer or retail dealer to make a report and pay all
49 such taxes, and to surrender to the tax commissioner the
50 license certificate theretofore issued, under the provisions
51 of this article.

52 Unless the notice shall have been given to the tax com-
53 missioner as above provided, such purchaser or transferee
54 shall be liable to the state of West Virginia for the amount
55 of all taxes and penalties, under this article accrued
56 against such distributor, importer or retail dealer so sell-

57 ing or transferring his business, on the date of such sale
58 or transfer, but only to the extent of the value of the
59 property and business thereby acquired from such dis-
60 tributor, importer or retail dealer.

CHAPTER 101

(Com. Sub. for House Bill No. 252—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend and reenact section two-i, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to business, occupation and privilege taxes.

[Passed March 13, 1943; in effect from passage. Became a law without the approval of the Governor.]

Article 13. Business and Occupation Tax.

Section

2-i. Business of collecting rentals, royalties, etc.

Be it enacted by the Legislature of West Virginia:

That section two-i, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 2-i. *Business of Collecting Rentals, Royalties, etc.*—Upon every corporation or association engaging or continuing within this state in the business of collecting incomes from the use of real or personal property or of any interest therein, whether by lease, conveyance, or otherwise, and whether the return be in the form of rentals, royalties, fees, interest or otherwise, the tax shall be one per cent of the gross income of any such activity.

9 This act shall be operative for the calendar year begin-
10 ning January first, one thousand nine hundred forty-two,
11 and subsequent years.

CHAPTER 102

(House Bill No. 208—By Mr. Johnson)

AN ACT to authorize and empower the county court of Braxton county to transfer the sum of one thousand dollars from the general county fund to the dog tax fund of said county.

[Passed March 9, 1943; in effect from passage. Approved by the Governor.]

Section

1. Braxton county court authorized to transfer funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Braxton County Court Authorized to Transfer Funds.*—The county court of Braxton county is hereby
2 authorized and empowered to transfer the sum of one
3 thousand dollars from the general county fund to the
4 dog tax fund of said county.

5 All acts, or parts of acts, inconsistent herewith, are
6 hereby repealed, insofar as they may apply to Braxton
7 county.

CHAPTER 103

(Senate Bill No. 202—By Mr. Winters, by request)

AN ACT to amend article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, by

adding thereto a new section numbered eighteen-a, relating to the compensation of registrars of births and deaths.

[Passed March 11, 1943; in effect from passage. Approved by the Governor.]

Article 5. Vital Statistics.

Section

18-a. Compensation of registrar of births and deaths in Cabell county.

Be it enacted by the Legislature of West Virginia:

That article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section numbered eighteen-a, to read as follows:

Section 18-a. *Compensation of Registrar of Births and Deaths in Cabell County.*—The registrar or registrars in the county of Cabell shall receive a fee of fifty cents for the duties performed as required under the preceding section for each certificate of birth or death, to be paid as provided in said section.

CHAPTER 104

(House Bill No. 308—By Mrs. Walker)

AN ACT to authorize the county court of Fayette county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special fund for the building of additional county buildings or for enlarging, remodeling and improving present county buildings, and to expend for such purpose the fund so created.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Section

1. Fayette county court authorized to create special county building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Fayette County Court Authorized to Create Special County Building Fund.*—The county court of Fay-

3 ette county is hereby authorized and empowered from
4 year to year to use any unexpended funds of said county
5 and any surpluses in any county fund, or so much thereof
6 as they may see fit, for the purpose of creating a special
7 fund for the erection of new county buildings or for en-
8 larging, remodeling and improving present county build-
9 ings, and to expend for such purpose the fund so created.

CHAPTER 105

(House Bill No. 326—By Mr. Van Sickler)

AN ACT to authorize the county court of Greenbrier county, West Virginia, to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special fund for the improvement and maintenance of the Greenbrier county library and museum, and to expend for such purpose the fund so created.

[Passed March 13, 1943; in effect from passage. Approved by the Governor.]

Section

1. Greenbrier county court authorized to create special fund for improvement and maintenance of county library and museum.

Be it enacted by the Legislature of West Virginia:

Section 1. *Greenbrier County Court Authorized to Create Special Fund for Improvement and Maintenance of County Library and Museum.*—The county court of Greenbrier county, West Virginia, is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surplus in any county fund, not exceeding the sum of three hundred dollars per year, for the purpose of creating a special fund for the improvement and progressive maintenance of the Greenbrier county library and museum, situate in the town of Lewisburg in said county, and to expend for such purpose the fund so created.

CHAPTER 106

(House Bill No. 105—By Mr. Harmer and Mr. Mills)

AN ACT to authorize the county court of Harrison county, West Virginia, to establish and maintain a special fund to be known as the Harrison county airport fund, and to raise and deposit in said fund all money that may be raised from tax levies made for that purpose, and within the constitutional limitations; all money and income derived from the operation of the Harrison county airport; all gifts and donations made to said airport by the state of West Virginia, or the United States government, or any person, and to use said fund for the improvement and maintenance of said airport, and to annually transfer from said fund to the general county fund any money in said fund not needed for improvements and maintenance.

[Passed February 9, 1943; in effect from passage. Approved by the Governor.]

Section

1. Authorizing Harrison county court to establish Harrison county airport fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing Harrison County Court to Establish Harrison County Airport Fund.*—The county court of Harrison county, West Virginia, is authorized to establish a special county fund to be known as the Harrison county airport fund, and to raise and deposit in said fund all money that may be raised from tax levies made for that purpose and within the constitutional limitations; all money and income derived from the operation of the Harrison county airport, and all gifts and donations made to said airport by the state of West Virginia, or the United States government, or any person, and to use said fund for the improvement and maintenance of said airport, and to annually transfer from said fund to the general county fund any money in said fund not needed for improvements and maintenance: *Provided, however,* That said fund shall not at any time be reduced by such transfer below five thousand dollars.

CHAPTER 107

(House Bill No. 199—By Mr. Knight and Mr. Samms)

AN ACT authorizing the county court of Kanawha county, West Virginia, to provide compensation for Ella B. Diamond, the widow of J. H. (Jack) Diamond, a former deputy sheriff of Kanawha county, killed while in the performance of his duty as deputy sheriff.

[Passed March 2, 1943; in effect July 1, 1943. Approved by the Governor.]

Section

1. Kanawha county court authorized to pay Ella B. Diamond certain sums of money.

Be it enacted by the Legislature of West Virginia:

Section 1. *Kanawha County Court Authorized to Pay*

- 2 *Ella B. Diamond Certain Sums of Money.*—The county
3 court of Kanawha county is authorized and empowered
4 to pay to Ella B. Diamond, the widow of J. H. (Jack)
5 Diamond, deceased, former deputy sheriff of Kanawha
6 county, the sum of five hundred dollars in cash and the
7 further sum of fifty dollars per month, and to make pro-
8 vision for such monthly payments in its annual budget
9 each year during the remainder of the life of said Ella
10 B. Diamond or until she, the said Ella B. Diamond, shall
11 remarry, beginning with the budget of said county for
12 the fiscal year one thousand nine hundred forty-three,
13 one thousand nine hundred forty-four, said cash payment
14 and said monthly sum of money to be paid as compensa-
15 tion to the said Ella B. Diamond, who is the widow of
16 J. H. (Jack) Diamond, who was killed on the twentieth
17 day of August, one thousand nine hundred forty-one, in
18 the performance of his duty as deputy sheriff of Kanawha
19 county while preserving peace and law and order in said
20 county.

CHAPTER 108

(House Bill No. 322—By Mr. Doring)

AN ACT to authorize and empower the county court of Marion county to transfer funds, realized from the assessment and collection of head taxes on dogs, to the general county fund, for the use of said county in the construction and maintenance of the child shelter.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Section

1. Marion county court authorized to transfer funds to be used for construction and maintenance of child shelter.

Be it enacted by the Legislature of West Virginia:

Section 1. *Marion County Court Authorized to Transfer*

- 2 *Funds to Be Used for Construction and Maintenance of*
3 *Child Shelter.*—The county court of Marion county is
4 hereby authorized and empowered to transfer two thou-
5 sand five hundred dollars from the fund realized from the
6 assessment and collection of head taxes on dogs, to the
7 general county fund of Marion county, for the fiscal year
8 one thousand nine hundred forty-two—one thousand nine
9 hundred forty-three, to be used in the construction and
10 maintenance of the "Child Shelter of Marion County".



CHAPTER 109

(House Bill No. 198—By Mr. Rogers)

AN ACT authorizing the board of education of Mineral county to publish a history of Mineral county, and providing for the sale of such a history and the disposition of funds received therefrom.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Section

1. Mineral county board of education authorized to publish county history.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Mineral County Board of Education Authorized to Publish County History.*—The board of education of the county of Mineral is hereby authorized to publish a history of Mineral county, prepared as a works progress administration project. The board of education of said county is authorized to spend funds from the county school fund to pay the expense of publishing said history, provided such an expenditure does not affect the length of the school term in said county.
- The board of education is further authorized to sell such history at a price to be fixed by said board, and all funds received from such sales shall be deposited and credited to the county school fund of Mineral county.
-

CHAPTER 110

(House Bill No. 265—By Mr. Taylor, of Mingo)

AN ACT to authorize the county court of Mingo county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special fund for the building of a new jail, or for remodeling and improving any appropriate building owned by said county for that purpose, and to expend such special fund so created for that purpose and/or to use such special fund, or any part thereof, for making improvements to the courthouse.

[Passed March 12, 1943; in effect from passage. Approved by the Governor.]

Section

1. Mingo county court authorized to create special fund for building new jail, or remodeling and improving courthouse or other county buildings.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Mingo County Court Authorized to Create Special Fund for Building New Jail, or Remodeling and Improving Courthouse or Other County Buildings.*—The

4 county court of Mingo county is hereby authorized and
5 empowered from year to year to use any unexpended
6 funds of said county and any surplus in any county fund
7 for the purpose of creation of a special fund for the build-
8 ing of a new jail, or for enlarging or remodeling any suit-
9 able building the county may now have, and to expend
10 for such purpose the fund so created, or any part thereof,
11 and/or to use any part of the fund so created for the pur-
12 pose of remodeling or improving the existing courthouse
13 in said county.

3

CHAPTER 111

(House Bill No. 129—By Mr. Brand)

AN ACT to authorize the county court of Monongalia county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special fund for the building of a new courthouse, or for enlarging, remodeling and improving the present courthouse, and to expend for such purpose the fund so created.

[Passed March 9, 1943; in effect ninety days from passage. Approved by the Governor.]

Section

1. Monongalia county court authorized to create a special courthouse fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Monongalia County Court Authorized to Create a Special Courthouse Fund.*—The county court of
- 2 Monongalia county is hereby authorized and empowered
 - 3 from year to year to use any unexpended funds of said
 - 4 county and any surplus in any county fund for the pur-
 - 5 pose of creating a special fund for the building of a new
 - 6 courthouse, or for enlarging, remodeling and improving
 - 7 the present courthouse, and to expend for such purpose
 - 8 the fund so created.
 - 9

CHAPTER 112

(Senate Bill No. 98—By Mr. Eddy)

AN ACT to amend and reenact chapter one hundred sixty-four, acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, relating to the authority of the county court of Monongalia county to establish, equip and maintain a general hospital in said county for the treatment and care of patients, charitable and otherwise, to use in part the county infirmary buildings for such purpose, and to appoint a board of trustees to control, manage and operate the said hospital.

[Passed February 26, 1943; in effect from passage. Approved by the Governor.]

Monongalia General Hospital.

Section

1. Establishment and maintenance of Monongalia general hospital.
2. Cost of operating.
3. County court to appoint board of trustees for hospital; duties of hospital board.
4. Officers of hospital board; committees; members of board to serve without compensation.
5. Qualifications of members of board; term of office; vacancies.
6. Hospital board to be a corporation.
7. Specific powers of hospital board.
8. Hospital board to keep books of account; method of making disbursements.
9. Requirement of surety for officers or agents of hospital board.
10. Monongalia general hospital fund; accounts; payment of necessary expenses; surplus.
11. Hospital employees to be within workmen's compensation act; other insurance.
12. Wide discretion to be vested in the hospital board.
13. Title to hospital property to be in county court of Monongalia county.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred sixty-four, acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, be amended and reenacted to read as follows:

- Section 1. *Establishment and Maintenance of Monongalia General Hospital.*—The county court of Monongalia county is hereby authorized and empowered to establish, equip and maintain a general hospital in said county,

5 to be known as the "Monongalia General Hospital", and
6 for that purpose to use the present hospital and any build-
7 ings now utilized in connection therewith, including part
8 of the county infirmary buildings, grounds and equip-
9 ment, as well as any additions that may be built to the
10 present hospital.

Sec. 2. *Cost of Operating.*—The cost of operating the
2 Monongalia county hospital shall be provided for out
3 of the revenues of the said hospital: *Provided*, That the
4 county court of Monongalia county may in its dis-
5 cretion contribute to such expenditures out of any funds
6 in the hands of the said court and not otherwise ap-
7 propriated.

Sec. 3. *County Court to Appoint Board of Trustees for*
2 *Hospital; Duties of Hospital Board.*—The said county court
3 of Monongalia county shall forthwith appoint a board
4 of trustees, which board shall consist of nine members;
5 and said board of trustees is hereby authorized and em-
6 powered to control, manage, and operate the said Monon-
7 galia general hospital. Said board shall also be known
8 as the hospital board of Monongalia county.

Sec. 4. *Officers of Hospital Board; Committees; Mem-*
2 *bers of Board to Serve Without Compensation.*—The said
3 hospital board shall immediately organize with the usual
4 officers appropriate to such character of organization in-
5 itially and annually thereafter; and it shall certify from
6 time to time the names of its officers to the county court
7 of Monongalia county.

8 The board may, by resolution or resolutions passed by
9 a majority of the whole board, designate one or more
10 committees, each committee to consist of two or more
11 of the board members, which, to the extent provided for
12 in any such resolution, shall have and may exercise the
13 powers of the board in the management of the hospital
14 business.

15 Members of the hospital board shall serve without
16 compensation.

Sec. 5. *Qualifications of Members of Board; Term of*
2 *Office; Vacancies.*—All members of the hospital board

3 shall be citizens of West Virginia and residents of Monon-
4 galia county; and none of such members shall be en-
5 gaged in the practice of medicine or surgery. The term
6 of office of the members of the hospital board shall be
7 three years, except that the county court shall divide
8 those originally appointed into three classes: The term
9 of office of those of the first class shall expire on the
10 first day of March next ensuing; of the second class one
11 year thereafter; and of the third class two years there-
12 after; and at each annual appointment held after such
13 classification, members shall be chosen for a full term,
14 as the case may be, to succeed those whose terms expire.
15 All vacancies in the membership of the hospital board
16 shall be promptly filled through such appointment by
17 the said county court; but members in office may con-
18 tinue to serve until their successors have been appointed
19 and have been qualified.

20 The county court of Monongalia county may at any time
21 remove members of the hospital board.

Sec. 6. *Hospital Board to Be a Corporation.*—Said hos-
2 pital board shall be a corporation; and as such it may con-
3 tract and be contracted with, sue and be sued, plead
4 and be impleaded, and shall have and use a common
5 seal.

Sec. 7. *Specific Powers of Hospital Board.*—In addi-
2 tion to any other powers granted by this act, the said
3 hospital board shall have specific authority over each of
4 the following subjects:

5 1. The board shall be authorized to employ all agents,
6 technicians, employees and others deemed proper or
7 needful by it for the successful conduct of the affairs of
8 the hospital, and to fix their compensation. Employ-
9 ment shall be given without any reference whatsoever
10 to political opinions or party affiliation of the person
11 concerned.

12 2. The board is empowered to make such rules and
13 regulations in and concerning the management of the
14 hospital as may seem necessary, needful or proper; and
15 it may adopt such disciplinary measures as may appear
16 expedient. The board may delegate to the superintendent

17 of the hospital and to such other directing personnel, as
18 it may from time to time employ, ample and plenary
19 power to make such rules and regulations effective.

20 3. The board may formulate appropriate rules and
21 regulations relating to the use of the hospital and its
22 facilities by members of the medical and surgical pro-
23 fession or hospital staff.

24 4. The board may fix and establish appropriate rates
25 and charges for the use of the hospital and its facilities
26 by any patients who may be admitted thereto for care,
27 hospitalization or treatment.

28 5. The board shall have authority to utilize net income
29 or surplus profits for equipment, equipment-maintenance
30 and improvement of facilities; and the board is specifically
31 authorized to make such expenditures for these purposes
32 as may in the board's discretion seem proper.

33 In general, the board shall possess complete authority
34 to conduct the affairs of the Monongalia general hos-
35 pital with all appropriate facilities and services; and the
36 enumeration of powers in this section shall not operate
37 to exclude the exercise of other powers fairly incidental
38 thereto or reasonably implied and within the purposes
39 of this act.

Sec. 8. *Hospital Board to Keep Books of Account;*
2 *Method of Making Disbursements.*—The hospital board
3 shall cause accurate and proper books of account to be
4 kept. All payrolls shall be approved by the president
5 and secretary of the hospital board, or respective sub-
6 stitute officials, prior to the payment of any compensation
7 whatsoever. The treasurer of the hospital board shall
8 make disbursements upon the requisition of such presi-
9 dent and secretary, and not otherwise.

Sec. 9. *Requirement of Surety for Officers or Agents of*
2 *Hospital Board.*—Any officers, agents or employees of the
3 hospital board, appointed or authorized to receive moneys
4 for services rendered at the hospital, shall be required to
5 give bond in such sum and with such surety as may be
6 deemed sufficient by the said hospital board.

Sec. 10. *Monongalia General Hospital Fund; Accounts;*

2 *Payment of Necessary Expenses; Surplus.*—All revenues
3 derived from the operation of the hospital shall be de-
4 posited in a separate account designated as the “Monon-
5 galia General Hospital Fund”. The hospital board shall
6 at least once each month render an itemized statement
7 of its receipts and expenses to the county court, and it
8 shall also submit to said court an annual statement of
9 its financial condition.

10 Out of the said hospital fund, there shall be trans-
11 ferred and paid the following amounts for the following
12 purposes, in the order that the same are hereinafter set
13 forth:

14 1. There shall be paid the reasonable expense of
15 operation, repair and maintenance of the hospital.

16 2. Out of the balance of the revenues remaining in the
17 hospital fund, after payment of the amount hereinabove
18 in the first subsection required to be paid, there shall
19 be paid into a separate account which is hereby created
20 and designated as the “Operation and Maintenance Ac-
21 count”, as a reserve for operation, repair and maintenance,
22 an amount deemed sufficient for operation, repair and
23 maintenance of the hospital for an ensuing period of
24 not less than twelve months, and for depreciation.

25 3. The balance of the revenue remaining in the hos-
26 pital fund, after payment of the amounts hereinabove
27 provided, may be paid over by the said hospital board to
28 the county court of Monongalia county, and may be used
29 by the said county court for any other lawful purpose.

30 The county court of Monongalia county shall forth-
31 with pay over into the Monongalia general hospital fund
32 all existing funds now held by it or on deposit in any bank-
33 ing institution, to the credit of the said Monongalia gen-
34 eral hospital or for its current operations. The said county
35 court shall also transfer, assign and set over to the hos-
36 pital board all accounts receivable or bills owing in favor
37 of the said Monongalia general hospital.

Sec. 11. *Hospital Employees to Be Within Workmen's*
2 *Compensation Act; Other Insurance.*—All members of the
3 hospital, eligible thereto, shall be deemed to be within
4 the workmen's compensation act of West Virginia, and

5 premiums on their compensation shall be paid by the
6 hospital board as required by law. Adequate insurance-
7 coverage against hazards shall at all times be carried as
8 prudence in good management indicates.

Sec. 12. *Wide Discretion to Be Vested in the Hospital*
2 *Board.*—It is the purpose of this act to provide for an ef-
3 ficient operation of the hospital, and to permit of the
4 prudent and economical management of the hospital by
5 the hospital board. Wide discretion and adequate au-
6 thority are accordingly vested in the hospital board, in
7 order to achieve that purpose expeditiously and with due
8 safeguards.

9 Nevertheless, the said hospital board shall make no
10 discrimination among the medical practitioners of said
11 county or their patients, provided these comply with all
12 reasonable rules and regulations made by the hospital
13 board for the governance of the said hospital.

Sec. 13. *Title to Hospital Property to Be in County*
2 *Court of Monongalia County.*—Title to all property con-
3 stituting or belonging to the Monongalia general hos-
4 pital, as comprised within this act, shall be vested as
5 heretofore, in the county court of Monongalia county.

CHAPTER 113

(House Bill No. 75—By Mr. Holt, of Nicholas)

AN ACT to authorize and empower the county court of
Nicholas county to transfer the unexpended balances in the
dog tax fund to the general county fund of said county.

[Passed March 9, 1943; in effect from passage. Approved by the Governor.]

Section

1. Nicholas county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Nicholas County Court Authorized to Trans-*

2 *fer Dog Tax Fund.*—The county court of Nicholas county
3 is hereby authorized and empowered to transfer the
4 unexpended balances now in the dog tax fund of said
5 county, remaining and not needed for the payment and
6 satisfaction of all claims and expenses against the said
7 dog tax fund, to the general county fund of said county.
8 All acts, or parts of acts, inconsistent herewith, are
9 hereby repealed, insofar as they may apply to Nicholas
10 county.

CHAPTER 114

(House Bill No. 33—By Mr. Callahan and Mr. Flaccus)

AN ACT to authorize and empower the board of commissioners of the county of Ohio to invest temporarily the proceeds of the sale of bonds of the city-county building bond issue, issued pursuant to the order of said board of commissioners of the county of Ohio made the twelfth day of April, one thousand nine hundred forty, and to the election held in said county of Ohio on the fourteenth day of May, one thousand nine hundred forty, in certain designated securities.

[Passed February 8, 1943; in effect from passage. Approved by the Governor.]

Section

1. Board of commissioners of the county of Ohio authorized to make temporary investment of proceeds of sale of bonds issued for construction of city-county building.
2. Changes in investment.
3. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. *Board of Commissioners of the County of Ohio Authorized to Make Temporary Investment of Proceeds of Sale of Bonds Issued for Construction of City-County Building.*—The board of commissioners of the county of Ohio is hereby authorized and empowered to make a temporary investment of the proceeds of the sale

7 of the bonds issued for the construction of a city-county
8 building under authority of the order of the board of
9 commissioners of the county of Ohio on the twelfth day
10 of April, one thousand nine hundred forty, and the elec-
11 tion held pursuant thereto on the fourteenth day of May,
12 one thousand nine hundred forty, in bonds or obligations
13 of the United States, or in bonds of which both principal
14 and interest are guaranteed by the United States, or in
15 bonds of the state of West Virginia, or in bonds of any
16 county, city, town, village or school district of the state
17 of West Virginia: *Provided, however,* That before mak-
18 ing such investment the said board of commissioners of
19 the county of Ohio shall obtain from the sinking fund
20 commission of the state of West Virginia the approval in
21 writing of said commission to said proposed investment.

Sec. 2. *Changes in Investment.*—Said board of com-
2 missioners of the county of Ohio, after obtaining like
3 approval, may make such changes in said investment as
4 may, in its judgment, be necessary for the safety and
5 protection of the proceeds of said bond issue from time to
6 time during the period that said proceeds are temporarily
7 invested and until they are needed for the purposes for
8 which said bonds were issued.

Sec. 3. *Inconsistent Acts Repealed.*—All acts, or parts
2 of acts, inconsistent herewith, are hereby repealed.

CHAPTER 115

(House Bill No. 144—By Mr. Ross, of Upshur)

AN ACT authorizing the county court of Upshur county to ex-
pend funds for the purchase, improvement and maintenance
of a Four-H camp for educational and recreational pur-
poses, at Selbyville, in Upshur county, and providing for
acquisition of necessary equipment in connection there-
with; authorizing levies for any such purposes, and creating

a board for the control, management and supervision thereof.

[Passed March 2, 1943; in effect ninety days from passage. Approved by the Governor.]

Upshur County Four-H Camp.

Section

1. Upshur county court authorized to acquire Four-H camp property.
2. Levies.
3. Upshur county Four-H camp board; appointment; duties; organization; meeting.
4. Appointment of employees.
5. Levy estimates.
6. Additional funds; limitation on expenditures.

Be it enacted by the Legislature of West Virginia:

Section 1. *Upshur County Court Authorized to Acquire Four-H Camp Property.*—The county court of Upshur county shall have and is hereby authorized to acquire the William McDade property, consisting of forty-six acres, more or less, of land and the improvements thereon, located at Selbyville, Upshur county, West Virginia, now used as a Four-H camp, and to equip, improve and maintain the same for educational and recreational purposes, and to expend money for such purposes.

Sec. 2. *Levies.*—For the purposes aforesaid, the county court of Upshur county may, in its annual levy estimate for current expenses, provide for and thereafter collect and expend funds for the purposes enumerated in section one of this act: *Provided, however,* That the rate of levy shall not exceed seventy-five mills on class I, one and one-half cents on class II, and three cents on classes III and IV, on each one hundred dollars valuation of assessed property in the county.

Sec. 3. *Upshur County Four-H Camp Board; Appointment; Duties; Organization; Meeting.*—There shall be a board of Four-H camp commissioners consisting of five members, known as "Upshur County Four-H Camp Board", which shall be a body corporate. The members of such board shall be appointed by the county court of Upshur county in the manner hereinafter provided, and said board shall have control, management, and su-

9 pervision of said camp and its uses. Such camp board
10 shall be organized and shall have and exercise the
11 powers and duties hereinafter provided.

12 (a) All members of the camp board shall be resi-
13 dents and qualified voters of Upshur county, and not
14 more than two shall be appointed or serve at one time
15 from the same magisterial district.

16 (b) Two such members shall be appointed for a
17 term of two years, two for a term of four years, and
18 one for a term of six years. Whenever a vacancy
19 shall occur by death, resignation, removal or expira-
20 tion of term of office, a successor member shall be
21 appointed by the county court in the same manner
22 as original appointments were made. All members ap-
23 pointed to fill the vacancies occasioned by the expira-
24 tion of the terms of office of their predecessors shall
25 be appointed for a term of six years. All members
26 appointed to fill other vacancies shall be appointed for
27 the unexpired terms.

28 (c) Members of "Upshur County Four-H Camp
29 Board" shall be appointed after nomination by a nominat-
30 ing committee, which nominating committee shall con-
31 sist of five members, to be constituted as follows:

32 One member of the committee shall be a person
33 selected by the Four-H councils of boys and girls' or-
34 ganizations of Upshur county.

35 One member of the committee shall be a person selected
36 by the Upshur county farm bureau.

37 One member of the committee shall be a person
38 selected by the board of education for Upshur county.

39 One member of the committee shall be a person se-
40 lected by the Upshur county district of scouting organiza-
41 tion.

42 One member of the committee shall be a person
43 selected by the county court of Upshur county.

44 If any organization authorized to appoint a member of
45 the nominating committee shall cease to exist, or fail
46 to exercise its privilege of appointment, such nominating
47 committee may still function as long as at least three
48 members thereof are appointed and participate.

49 Nominations for vacancies in membership of the

50 board shall be made in the same manner. No person
51 shall be appointed to fill any vacancy until after he
52 shall have been nominated by the nominating committee
53 as hereinbefore provided.

54 (d) Before entering upon the duties as members
55 of "Upshur County Four-H Camp Board" each member
56 shall be required to qualify by taking and subscrib-
57 ing to an oath to faithfully perform his duties as a
58 member of such board. Such oath shall be adminis-
59 tered by the clerk of the county court of Upshur
60 county.

61 (e) The first meeting of the board shall be held
62 at the time and place to be designated by the county
63 court, and within thirty days after this act shall be-
64 come effective; thereafter, regular meetings shall be
65 held as prescribed by rules adopted by the board at
66 its first meeting. Special meetings may be held at any
67 time as prescribed by the board, or when called by the
68 president or three members of the board.

69 (f) The board shall elect from its members a presi-
70 dent and a secretary. The president shall preside
71 as chairman of the meetings and shall not vote upon
72 any matter except in case of tie. A majority of the
73 members shall constitute a quorum of the board for trans-
74 action of business.

75 The secretary shall keep records of all meetings
76 of members of the board. Minutes of such meetings
77 shall be filed in the office of the clerk of the county
78 court.

79 The secretary shall keep, or cause to be kept, a record
80 of all receipts and expenditures of the board. Such
81 record shall be submitted to the county court at least
82 every six months, or more often if required by the
83 county court.

Sec. 4. *Appointment of Employees.*—The county court
2 shall appoint only such employees as may be recom-
3 mended by the board.

4 No expenditure shall be made for any purpose under
5 this act, except upon the recommendation and approval
6 of the board made in writing.

Sec. 5. *Levy Estimates.*—The “Upshur County Four-H Camp Board” may each year, prior to levy term of the county court of Upshur county, submit to the court a detailed estimate of the amount required to be expended for any of the purposes enumerated in section one of this act. In making its levy estimate the court may provide for all, or such portion of the funds so estimated by the board as necessary for the purposes included in its estimate. The court may, from time to time, allocate and spend for the purposes enumerated in section one of this act, such funds as to it may seem desirable and as may be available and not required for other purposes for which the same may have been levied or collected.

Sec. 6. *Additional Funds; Limitation on Expenditures.*—The county court of Upshur county may, from time to time, authorize “Upshur County Four-H Camp Board” to expend moneys for the purposes of this act, in addition to funds raised by levy, but before any such expenditures are authorized to be made by the board, the limit of such expenditures shall be fixed by the court. Neither the court nor the county shall, in any event, be liable for any expenditures made or indebtedness incurred by the board in excess of the amounts authorized.

The board is authorized to solicit and receive donations and gifts, for use and maintenance of said camp: *Provided, however,* That all moneys so received may be disbursed by said board.

CHAPTER 116

(House Bill No. 317—By Mr. Morgan)

AN ACT authorizing the county court of Wyoming county to compensate R. F. Musgrave for services rendered under a decree of reference involving the accounts of a commissioner of school lands of Wyoming county.

[Passed March 11, 1943; in effect from passage. Approved by the Governor.]

Section

1. Wyoming county court authorized to compensate R. F. Musgrave.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wyoming County Court Authorized to Com-*
2 *pensate R. F. Musgrave.*—The county court of Wyoming
3 county is authorized and empowered to pay from the
4 general county fund of Wyoming county the sum of one
5 thousand dollars to R. F. Musgrave for services rendered
6 under a decree of reference involving the accounts of
7 Paul E. Blackshear, former commissioner of school lands
8 of Wyoming county, it having been determined by an
9 order of the circuit court of Wyoming county, entered
10 on February twenty-four, one thousand nine hundred
11 thirty-nine, that such services were rendered by the said
12 R. F. Musgrave, and that the sum of one thousand dol-
13 lars be allowed as compensation for the services of the
14 said R. F. Musgrave, and the county court of Wyoming
15 county is directed to make provision in its next annual
16 budget for the said payment.

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. McElwee)

[Adopted January 13, 1943.]

Raising a joint assembly to open and publish election returns.

Resolved by the House of Delegates, the Senate concurring therein:

That the two Houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 2:15 o'clock P. M., this day, that the Speaker of the House of Delegates may, in the presence of the Senate, open and publish the returns of the election of Attorney General (unexpired term), elected at the general election held throughout the state on the third day of November, one thousand nine hundred forty-two, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Van Sickler)

[Adopted January 13, 1943.]

Providing for a joint assembly to hear the biennial message of the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 12:00 o'clock noon, Thursday, January 14, 1943, to hear the biennial message of His Excellency, Governor Matthew M. Neely.

HOUSE CONCURRENT RESOLUTION NO. 3

(By Mr. Knight)

[Adopted January 13, 1943.]

Relating to the payment by the Auditor of mileage, and contingent and other expenses of this session of the Legislature, and unpaid bills of the House of Delegates, regular session, one thousand nine hundred forty-one.

Resolved by the House of Delegates, the Senate concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper requisition of the Clerk of the Senate and the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates; and bills for the legislative printing of this session, as the accounts for same may become due; and, be it

Further Resolved, That the Auditor, in advance of an appropriation for the purpose, is hereby authorized, upon proper requisition of the Clerk of the House of Delegates, to pay unpaid bills for printing and other purposes, of the House of Delegates, authorized by the regular session of the Legislature, one thousand nine hundred forty-one.

HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Van Sickler)

[Adopted January 14, 1943.]

Adopting joint rules for the Senate and House of Delegates.

Resolved by the House of Delegates, the Senate concurring therein:

That the joint rules of the Senate and House of Delegates

for the regular session of the Legislature, one thousand nine hundred forty-one, are hereby adopted, and shall govern proceedings of this session.

HOUSE CONCURRENT RESOLUTION NO. 5

(By Mr. Hugus)

[Adopted January 21, 1943.]

Requesting the Board of Public Works to suspend any further appropriations, allocation, expenditure or contracting for the expenditure of any and all funds appropriated as contingent expenditures by section four, chapter six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-one, not heretofore appropriated, allocated or contracted to be spent, and requesting said Board of Public Works to report forthwith to this Legislature the status of such contingent appropriations.

Resolved by the House of Delegates, the Senate concurring therein:

That the Board of Public Works of West Virginia is hereby requested to suspend any further appropriations, allocation, expenditure or contracting for the expenditure of any and all funds appropriated as contingent expenditures by section four, chapter six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-one, not heretofore appropriated, allocated or contracted to be spent; and, be it

Further Resolved, That said Board of Public Works is requested to submit to this Legislature within five days from the adoption of this resolution a report showing (a) the amount of such contingent appropriations already made and the purposes thereof; (b) the amount of such contingent appropriations contracted to be spent, including the purposes thereof, and copies of any contracts entered into by the Board of Public Works for such expenditures; (c) the amount of such contingent appropriations not made, spent or contracted for.

HOUSE CONCURRENT RESOLUTION NO. 7

(By Mr. Moore)

[Adopted February 11, 1943.]

Providing for the placing of the flag of West Virginia at Pearl Harbor.

WHEREAS, The Legislature of West Virginia has been requested to send a State flag, twenty inches by thirty inches in size, to be placed in the Navy Cantonment Center at Pearl Harbor, in commemoration of the brave boys of our State who defended the island on December 7, 1941; and

WHEREAS, The other states of the Union have received similar requests and have responded to same; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Secretary of State be directed to purchase and pay for out of his contingent fund, a flag of the State of West Virginia, to be twenty inches by thirty inches in size, and send same at the earliest possible date to Herbert E. Hull, Building X-4, Apartment 934, Navy Cantonment, Pearl Harbor, T. H., and there to be placed beside the flags of other states, in memory of those brave men who defended the island against the attack of our enemy, December 7, 1941.

HOUSE CONCURRENT RESOLUTION NO. 8

(By Mr. Hugus)

[Adopted February 3, 1943.]

Authorizing the Board of Control to erect a suitable plaque or memorial in the State Penitentiary at Moundsville, to honor the voluntary services and work of the late Peter F. Haberstick on behalf of the prisoners in the penitentiary, the cost thereof to be paid from voluntary contributions made for the purpose, and authorizing the warden of the penitentiary to solicit such contributions.

WHEREAS, Peter F. Haberstick of Wheeling, for thirty-seven years was interested in providing entertainment and recreation for prisoners in the penitentiary, and devoted much of his time voluntarily in organizing entertainments in which prisoners participated, and otherwise worked for the rehabilitation of such prisoners; and

WHEREAS, The Legislature wishes to express its appreciation of the work of Mr. Haberstick; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Board of Control is hereby authorized to design and erect, or cause to be designed and erected, within the State Penitentiary at Moundsville, a plaque or other suitable memorial in honor of the late Peter F. Haberstick, the total cost thereof not to exceed the amount of voluntary contributions which may be given or raised for the purpose. The warden of the penitentiary is authorized to solicit funds for the purpose, and shall pay over all of such funds to the Board of Control to provide any such plaque or memorial. Any funds not needed for the purpose shall be returned proportionately to the contributors thereof.

HOUSE CONCURRENT RESOLUTION NO. 10

(By Mr. Hansbarger)

[Adopted February 12, 1943.]

Authorizing the employment of an actuary to make an audit of, and report on, the teachers' retirement fund.

Resolved by the House of Delegates, the Senate concurring therein:

That the President of the Senate and Speaker of the House of Delegates are hereby authorized to employ an actuary to make an audit of, and report on, the teachers' retirement fund. The expense of said audit and report shall be paid in equal

amounts from the contingent fund of the Senate and the contingent fund of the House of Delegates upon proper requisitions of the Clerks of the two Houses.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Blankenship)

[Adopted February 24, 1943.]

Relating to Mother's Day and Father's Day.

Resolved by the House of Delegates, the Senate concurring therein:

That the Governor of the State of West Virginia is hereby respectfully requested to designate, by appropriate proclamation, the second Sunday of May of each year as Mother's Day, and the third Sunday of June of each year as Father's Day.

HOUSE CONCURRENT RESOLUTION NO. 16

(By Mr. Hansbarger)

[Adopted February 27, 1943.]

Authorizing the employment of an actuary to make an audit of, and report on, the death, disability and retirement fund of the Department of Public Safety.

Resolved by the House of Delegates, the Senate concurring therein:

That the President of the Senate and Speaker of the House of Delegates are hereby authorized to employ an actuary to make an audit of, and report on, the death, disability and retirement fund of the Department of Public Safety. The expense of said audit and report shall be paid in equal amounts from the contingent fund of the Senate and the contingent fund of the House of Delegates upon proper requisition of the Clerks of the two Houses.

HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Holt, of Nicholas)

[Adopted March 5, 1943.]

Relating to the enlistment of West Virginians in the Navy and Armed Forces.

WHEREAS, More than fifteen thousand young Mountaineers from the State of West Virginia have enlisted in the services of the United States Navy since Pearl Harbor, and more than twelve thousand have enlisted in the United States Army, exclusive of officers, air cadets, and other branches of the service, including the Marine Corps and Coast Guard; and

WHEREAS, The Navy Recruiting office of West Virginia, conducted by Lieutenant Commander William A. Saunders, has permanently won the Navy "E" for recruiting in the Southeastern Division, and the State of West Virginia has consistently placed among the top ten Navy recruiting districts in all of the United States; and

WHEREAS, The Army Recruiting Offices, conducted by Captain Edmond Stone, and the Marine Corps Recruiting Office, conducted by Captain Robert Gordon, have also courteously assisted the volunteers of our State in selecting the branch of service for which they were best fitted; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia, regular session, one thousand nine hundred forty-three, hereby expresses its appreciation for the courtesies extended the volunteers of this State by the various recruiting offices, and that with admiration, pride and humility, this Legislature commends the loyalty of these gallant young men of West Virginia, who have so unselfishly responded to the call of their country; and, be it

Further Resolved, That attention be called to the citizens of our State and to the great leaders of our country, that the same spirit of sacrifice, loyalty and scorn of danger when duty calls, prevail today among the West Virginia Mountaineers, inherent of those brave men who unhesitatingly left their homes and

families to follow George Washington in our first great fight for freedom, and whom the great leader admiringly referred to as "The men from West Augusta"; and, be it

Further Resolved, That we approve anew and reassert as our object and aims the sentiment expressed in the following words of the great Daniel Webster: "Let our object be our Country, our whole Country, and nothing but our Country; and by the blessing of God, may that Country itself become a vast and splendid monument, of peace and of liberty, upon which the world may gaze with admiration forever."

HOUSE CONCURRENT RESOLUTION NO. 23

(By Mr. Knight)

[Adopted March 10, 1943.]

Relating to the purchase of alcoholic beverages.

WHEREAS, The government of the United States on October 8th prohibited all of the distilleries in the United States from manufacturing alcohol for beverage purposes; and

WHEREAS, Since said date the government of the United States has requisitioned all alcohol being made by said distilleries for war purposes; and

WHEREAS, Some distillers have withdrawn all of their brands from the State of West Virginia and others have curtailed their supply, thereby creating an acute shortage of alcoholic beverages for sale in the State of West Virginia; and

WHEREAS, It is believed that West Virginia is not receiving its proportionate part of alcoholic beverages which some distillers have for sale; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the West Virginia Liquor Control Commission is hereby authorized not to purchase any alcoholic beverages for a period of five years after the termination of the present war from

any distiller now doing business within the State which is not now allocating to the State of West Virginia its proportionate part of such alcoholic beverages as said distiller may have for sale.

HOUSE CONCURRENT RESOLUTION NO. 27

(By Mr. Holt, of Lewis)

[Adopted March 10, 1943.]

Granting permission to introduce a bill relating to compulsory school attendance in the war emergency.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be numbered section one-a, relating to compulsory school attendance in the war emergency."

HOUSE CONCURRENT RESOLUTION NO. 29

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Authorizing the payment of expenses for services and supplies after the close of this session of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after

the close of this regular session of the Legislature, in completing the work of the session, and that the Auditor is hereby authorized and directed to honor and pay the warrants of the Clerk of the House of Delegates and the Clerk of the Senate, drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two Houses; and, be it

Further Resolved, That all extensions of per diem authorized by House Resolution No. 32 and Senate Resolution No. 21 for similar purposes, are hereby declared to be authorized by the Legislature, and shall have the same force and effect as if they were incorporated herein.

HOUSE CONCURRENT RESOLUTION NO. 30

(By Mr. LaFollette)

[Adopted March 13, 1943.]

Granting permission to introduce a bill providing for disposition of sheriff's lists and sale of real estate for taxes.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, by adding thereto a new section to be numbered fifty-six, relating to disposition of sheriff's lists and sale of real estate for taxes."

HOUSE CONCURRENT RESOLUTION NO. 31

(By Mr. LaFollette)

[Adopted March 13, 1943.]

Granting permission to introduce a bill providing for the certification by the sheriff of delinquent taxes.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

"A Bill to amend article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, by adding thereto a new section to be numbered section forty-three, relating to certification by the sheriff of delinquent taxes."

HOUSE CONCURRENT RESOLUTION NO. 32

(By Mr. Van Sickler)

[Adopted March 13, 1943.]

Raising a joint committee to notify His Excellency the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed to notify His Excellency, the Governor, that the Legislature has completed its labors, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

HOUSE RESOLUTION NO. 1

(By Mr. Hansbarger)

[Adopted January 13, 1943.]

Adopting rules for the House of Delegates.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the regular session, one thousand nine hundred forty-one, shall govern the proceedings of this House, pending a report from the Committee on Rules, hereafter to be appointed.

HOUSE RESOLUTION NO. 2

(By Mr. Ross, of Mercer)

[Adopted January 13, 1943.]

Raising a committee to inform the Senate that the House of Delegates is organized.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates is organized by the election of John E. Amos, of the County of Kanawha, as Speaker, and J. R. Aliff, of the County of Fayette, as Clerk, and is ready to proceed with the business of the session.

HOUSE RESOLUTION NO. 3

(By Mr. Van Sickler)

[Adopted January 13, 1943.]

Raising a committee to wait upon the Governor.

Resolved by the House of Delegates:

That a committee of three members be appointed by the Speaker, on the part of the House of Delegates, to join with a similar committee on the part of the Senate, to notify the

Governor of the State of West Virginia that a quorum of each House has assembled and has organized by the election of officers as required by the Constitution, and that the Legislature is ready to receive any communication that he may be pleased to make.

HOUSE RESOLUTION NO. 4

(By Mr. Bass)

[Adopted January 14, 1943.]

Authorizing the Clerk to compile and publish a Legislative Manual.

Resolved by the House of Delegates:

That the Clerk is hereby authorized to compile and have printed without delay, a Legislative Manual containing the rules of the Senate and the House of Delegates, the joint rules of the Senate and House of Delegates, and such other matter and material as he may deem to be useful and convenient to the members of the Legislature. A sufficient number of copies of said Legislative Manual to supply each member of the Legislature with ten copies thereof shall be printed.

HOUSE RESOLUTION NO. 5

(By Mr. Van Sickler)

(Originating in the Committee on Rules)

[Adopted January 18, 1943.]

Authorizing the appointment of attaches for the House of Delegates for the 1943 regular session of the Legislature.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby, authorized to appoint attaches and other employees to receive the per diem as herein provided, during this session of the Legislature:

(1) For the Clerk's office the following:

Two record clerks at seven dollars per day each;
Two roll-call clerks at seven dollars per day each;
Four proofreaders at eight dollars per day each;
Four copyholders at seven dollars per day each;
One supervisor of printing at ten dollars per day;
One payroll and supply clerk at ten dollars per day;
One clerk to the Committee on Enrolled Bills at eight dollars per day;
One messenger at seven dollars per day;
One file clerk at seven dollars per day;
Two typists at seven dollars per day each;
One receptionist-telephone operator at seven dollars per day;
One Journal clerk at twelve dollars per day;
One Journal stenographer at ten dollars per day;
One stenographer at eight dollars per day;

(2) For other offices and positions, the following:

One clerk, one assistant clerk and one stenographer to the Committee on Taxation and Finance at twelve, nine and eight dollars per day, respectively;
One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at twelve, nine and eight dollars per day, respectively;
Eleven committee clerks, to be assigned by the Speaker, at eight dollars per day each;
One secretary to the minority and one clerk to the minority at twelve and ten dollars per day, respectively;
Five stenographers for the minority room at eight dollars per day each;

One supervisor of stenographers at ten dollars per day;

Twelve stenographers at eight dollars per day each;

Four typists at seven dollars per day each;

One superintendent of document room at ten dollars per day;

Six document room clerks at seven dollars per day each;

One chief mailing room clerk at eight dollars per day;

Four assistant mailing clerks at seven dollars per day each;

Four pages at six dollars per day each;

One messenger to the Speaker at seven dollars per day;

Three assistants to the Sergeant-at-Arms at seven dollars per day each;

One clerk to the Sergeant-at-Arms at eight dollars per day;

Six assistant doorkeepers at seven dollars per day each;

One mimeograph supervisor at eight dollars per day;

Two mimeograph operators at seven dollars per day each;

One custodian of offices and property at seven dollars per day;

One ladies' cloak room attendant at five dollars per day;

Two men's cloak room attendants at six dollars per day each;

One voting machine technician at thirteen dollars per day;

One night watchman at seven dollars per day; and, be it

Further Resolved, That the secretary and stenographer to the Speaker, as provided for by the rules of the House, shall receive twelve and ten dollars, respectively; and that the secretary and stenographer to the Clerk as provided for by the rules, shall receive ten and twelve dollars, respectively; and, be it

Further Resolved, That the Clerk of the House shall receive compensation at the rate provided in Account No. 102, chapter six, Acts of the Legislature, regular session, one thousand nine hundred forty-one; that the Sergeant-at-Arms and Doorkeeper shall each receive ten dollars per day; and that the three assistant clerks provided for by section nine, article one, chapter four of the code, shall receive twelve dollars each per day; and, be it

Further Resolved, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such requisitions when presented and charge same to the "per diem of officers and attaches" fund of the House of Delegates. The Clerk shall draw his requisitions in favor of officers, attaches and other employees, for consecutive days from the date of their employment, at the per diems herein set out, until such time as their services shall cease. The Speaker may remove any attache or employee and appoint another in his or her place, and he shall require each of said attaches or employees to perform such duties as shall be assigned him or her, and is hereby given authority to dispense with the service of any attache or attaches for any such time or number of days as their services shall not be needed during the session, and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

Further Resolved, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature; and, be it

Further Resolved, That there shall be entered in the Journal of the House of Delegates a list of the names of the persons appointed under authority of this resolution, which list shall show the postoffice address and county of which such persons are residents and the positions to which they have been appointed; and, be it

Further Resolved, That no person appointed under authority of this resolution, and receiving pay hereunder, shall concurrently receive compensation from any other department of state, or agency thereof.

HOUSE RESOLUTION NO. 6

(By Mr. Van Sickler)

(Originating in the Committee on Rules)

[Adopted January 18, 1943.]

Providing for a mailing list for House Journals.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to have mailed from the House document room, copies of the daily Journal of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates, such lists not to exceed ten names from each Delegate; and the expenses of such mailing, including postage, shall be paid by the Auditor out of the contingent fund of the House of Delegates, in advance of the appropriation therefor, upon proper requisitions of the Clerk. All such mail shall bear the stamp of the Clerk of the House of Delegates, and the Clerk shall designate such persons as are to deliver such mail to the Central Mailing Office and notify the postmaster of such designation, and said office shall not accept such mail from any person or persons other than those so designated by the Clerk; and, be it

Further Resolved, That upon the approval of the Committee on Rules, the Clerk is authorized to mail copies of Journals, Bills and other documents printed by the House to persons requesting the same.

HOUSE RESOLUTION NO. 7

(By Mr. Van Sickler)

(Originating in the Committee on Rules)

[Adopted January 18, 1943.]

Relating to the appointment of assistant janitors.

WHEREAS, The Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter four of the code of West Virginia, has designated eight assistant janitors for the janitor work of the House of Delegates during this session of the Legislature; therefore, be it

Resolved by the House of Delegates:

That the per diem of said assistant janitors is fixed at five dollars, and that of the Superintendent of Capitol Building and Grounds is fixed at two dollars, as the House of Delegates' one-half of his per diem. Said per diems shall be paid from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, upon proper requisitions of the Clerk.

HOUSE RESOLUTION NO. 8

(By Mr. Holt, of Lewis)

[Adopted January 20, 1943.]

Raising a committee to make an investigation of the cost of government in West Virginia.

Resolved by the House of Delegates:

That a committee of five members of the House of Delegates be appointed by the Speaker of the House, with full and complete authority to make an investigation of the cost of government in West Virginia.

This committee shall have the authority to investigate any matter that has affected or does affect the expenditure or disbursement of any money by the State of West Virginia. The said committee shall have the power to employ such assistance

as it shall deem necessary in the proper and efficient discharge of its duties. It is hereby vested with power and authority to administer oaths, compel the attendance and testimony of witnesses, and compel the production of such books, documents, papers or accounts as the committee may deem necessary for the investigation.

The committee is granted authority to hold hearings at any place in the State of West Virginia.

The Clerk of the House of Delegates, upon the approval of the chairman of said committee, shall draw his requisitions upon the Auditor, payable out of the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for expenses of said committee. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by a signed approval of said expenses, signed by the chairman of said committee or by one authorized to do so by the committee.

The Auditor is authorized to draw his warrants upon the treasury, in advance of the appropriation for the purpose, for the expenses of said committee. Such expenses shall not exceed the sum of five thousand dollars.

The committee shall report its findings to the House of Delegates at a date not later than the first of March, one thousand nine hundred forty-three.

HOUSE RESOLUTION NO. 9

(By Mr. Davis)

[Adopted January 25, 1943.]

Authorizing payment of mileage to members of the House of Delegates.

WHEREAS, Members of the House of Delegates have certified to the Clerk that they are entitled to be paid mileage at the rate of ten cents per mile for each mile traveled in going to and returning from the seat of government as provided by section thirty-three of the Constitution of West Virginia, as follows:

HOUSE RESOLUTIONS

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Haymond A. Alltop	440	\$ 44.00
Wm. H. Ansel, Jr.	560	56.00
J. K. Arnett	54	5.40
Sherman Ballard	260	26.00
J. E. Bass	270	27.00
Charles Beard	742	74.20
Harvey D. Beeler	632	63.20
Arlan W. Berry	180	18.00
W. T. Blankenship	466	46.60
Frank M. Brand	440	44.00
Scott Brown	592	59.20
William Callahan	515	51.50
Max F. Carey	120	12.00
Mike Casey	104	10.40
Toney E. Cline	250	25.00
Spencer K. Creel	164	16.40
K. C. Currey	440	44.00
Fred L. Doring	440	44.00
Boyd Dotson	224	22.40
Roy I. Douglas	170	17.00
N. T. Downs	360	36.00
George Evans	400	40.00
J. C. Fanning	230	23.00
P. Douglass Farr	270	27.00
W. E. Ferrell	144	14.40
E. J. Flaccus	515	51.50
O. C. Flint	160	16.00
Francis Freshwater	572	57.20
O. E. Garten	220	22.00
J. C. Hansbarger	440	44.00
Harvey W. Harmer	324	32.40
J. W. Hartigan	440	44.00
O. C. Hathaway	166	16.60
Dan Herd	515	51.50
Boyd C. Holley	40	4.00
Rush D. Holt	240	24.00
W. H. Holt	200	20.00
John G. Hudson	104	10.40
Wright Hugus	515	51.50

Glenn Jackson	144	14.40
William Janes	350	35.00
J. W. Johnson	180	18.00
William McCoy	486	48.60
R. L. McCulty	100	10.00
June McElwee	300	30.00
Cecil L. Miller	160	16.00
Blaine M. Miller	164	16.40
Frank Mills	324	32.40
M. S. R. Moler	772	77.20
Everett F. Moore	510	51.00
W. C. Morgan	440	44.00
Robert Morris	236	23.60
Lacy Neely	124	12.40
Cecil L. Nichols	274	27.40
B. R. Osborne	80	8.00
Hugh Paul	154	15.40
E. G. Pierson	82	8.20
M. L. Postalwait	52	5.20
H. L. Potts	352	35.20
J. C. Powell	208	20.80
C. W. Raese	440	44.00
George A. Rairden	86	8.60
A. L. Reed	380	38.00
John I. Rogers	592	59.20
Perce J. Ross	280	28.00
Fred F. Rotroff	104	10.40
P. T. Saunders	230	23.00
Owen S. Schaeffer	590	59.00
Herbert Schupbach	264	26.40
E. B. Shannon	440	44.00
Clyde Slater	104	10.40
Harlan Staats	90	9.00
Emmett G. Staley	150	15.00
Robert Evans Stealey	164	16.40
J. Alfred Taylor, Jr.	110	11.00
Glenn Taylor	250	25.00
J. Alex Tinsley	52	5.20
G. C. Trumbo	600	60.00
H. L. Van Sickler	270	27.00

Nell W. Walker	124	12.40
John C. Ward	160	16.00
Henry F. White	104	10.40
L. G. Williams	324	32.40
B. H. Woodyard	440	44.00
Floyd R. Yoho	510	51.00

Therefore; be it

Resolved by the House of Delegates:

That the Clerk be, and he is hereby, directed to draw his requisitions upon the Auditor in favor of each member of this body entitled to mileage at the rate of ten cents per mile as set forth herein, payable out of the appropriation hereafter to be made for the payment of mileage.

HOUSE RESOLUTION NO. 11

(By Mr. Doring)

(Originating in the Committee on Elections and Privileges)

[Adopted January 28, 1943.]

Approving the report of the Committee on Elections and Privileges in the contest cases of L. J. Callinan and Ray L. Hope against Walter Vergil Ross, Lacy Neely and Haymond A. Alltop.

Resolved by the House of Delegates:

That the report of the Committee on Elections and Privileges, signed and submitted by the chairman of said committee, in the contest cases of L. J. Callinan and Ray L. Hope, involving the qualifications and eligibility of Walter Vergil Ross, Lacy Neely and Haymond A. Alltop to seats in the House of Delegates be received and approved; and, be it

Further Resolved, That Walter Vergil Ross of the County of Mercer, Lacy Neely of the County of Fayette, and Haymond A. Alltop of the County of Marion, are hereby declared to have been duly and lawfully elected to the House of Delegates from their respective counties at the general election held on the

3rd day of November, 1942, that they are qualified and eligible to serve as members of the House of Delegates, and that they are entitled to their seats in the House of Delegates.

HOUSE RESOLUTION NO. 13

(By Mr. Downs)

[Adopted February 8, 1943.]

Extending birthday congratulations to the only feminine member of the forty-sixth session of the Legislature of West Virginia.

WHEREAS, On yesterday, February 7, our charming lady member of the forty-sixth Legislature of West Virginia, Mrs. Nell W. Walker of Winona, Fayette County, celebrated her birthday; and

WHEREAS, The remaining ninety-three members of the House are well aware of the sterling qualities of the conscientious, intelligent and well informed representative now serving her fourth consecutive term from the County of Fayette; therefore, be it

Resolved by the House of Delegates:

That we denote our affectionate and sincere congratulations to Mrs. Walker, the lady from Fayette, and that a fitting tribute be manifested by the presentation of a floral token suitable to the occasion; and, be it

Further Resolved, That a certified copy of this resolution be transmitted to Mrs. Walker for her personal files.

HOUSE RESOLUTION NO. 15

(By Mr. Ansel)

[Adopted February 16, 1943.]

Requesting the State Conservation Commission to set open season on squirrels for 1943 to begin on the first day of October.

WHEREAS, Under the present laws of the State of West Virginia, the Conservation Commission and the Director thereof have the power to set and regulate the open and closed seasons on game and fish; and

WHEREAS, It is not the intention or inclination of the House of Delegates of the State of West Virginia to remove, or in any way impair such powers as are now vested in the Conservation Commission and the Director; and

WHEREAS, It has been the custom and legal duty of the Conservation Commission and the Director thereof, through district sportsmen's meetings to request and accept suggestions and recommendations in regard to game and fish management and regulation from the citizens and sportsmen of the State; and

WHEREAS, It being of common knowledge that a vast majority of the hunters and citizens of the State do desire an earlier open season on squirrels than that of the open season as set in the year one thousand nine hundred forty-two; therefore, be it

Resolved by the House of Delegates:

That the Conservation Commission and the Director of Conservation do set the open season on squirrels for the year one thousand nine hundred forty-three to begin on the first day of October.

HOUSE RESOLUTION NO. 16

(By Mr. Knight, by request)

[Adopted February 16, 1943.]

Requesting John B. Smith, Director of Probation and Parole, to make investigations and report to the Honorable M. M. Neely, Governor of the State of West Virginia, and to the House of Delegates, regarding the eligibility and advisability of paroles being granted to Malcolm R. Arnold, former member and former Speaker of the House of Delegates, and Lester Perry, a former member of the House of Delegates.

WHEREAS, Section thirteen, chapter twenty-seven, acts of the West Virginia Legislature, regular session, one thousand nine hundred thirty-nine, makes it the duty of the State Director of Probation and Parole, in cases of persons sentenced to a penal or correctional institution of this State, as soon as such persons so sentenced to a penal or correctional institution are eligible for parole, to consider the advisability of such person's release on parole; and

WHEREAS, Malcolm R. Arnold, a member of the House of Delegates and Speaker thereof at the regular session, one thousand nine hundred forty-one, was convicted of a felony in the Intermediate Court of Kanawha County of irregularities in the matter of attaches and the payment of the per diem of such attaches during said session of the Legislature, and is now confined in the West Virginia Penitentiary; and

WHEREAS, Lester Perry, a member of the House of Delegates during the sessions of one thousand nine hundred thirty-seven, one thousand nine hundred thirty-nine and one thousand nine hundred forty-one, was convicted of a felony in the Intermediate Court of Kanawha County of irregularities in the matter of attaches and the payment of the per diem of such attaches during the one thousand nine hundred forty-one session of the Legislature, and is now confined in the West Virginia Penitentiary; and

WHEREAS, A petition was circulated among the members of the West Virginia Legislature, session of one thousand nine hundred forty-one, which was signed by a number of such members, requesting and recommending that the said Malcolm R. Arnold and the said Lester Perry be released on probation, copies of which petition have been filed with the Director of Probation and Parole; and

WHEREAS, A great amount of interest is manifested by the public generally throughout the State of West Virginia as to the reason why the said Malcolm R. Arnold and the said Lester Perry have not been released on paroles, after having become eligible for parole, and it being the consensus of opinion of the majority of the members of the House of Delegates that a report as to the eligibility of the said Malcolm R. Arnold and the eligibility of the said Lester Perry for parole and the advis-

ability of releasing the said Malcolm R. Arnold and the said Lester Perry from their incarceration should be made; therefore, be it

Resolved by the House of Delegates:

That John B. Smith, Director of Probation and Parole, do make a report on or before March first, one thousand nine hundred forty-three, to the Honorable M. M. Neely, Governor of the State of West Virginia, and to the House of Delegates, regarding the eligibility and advisability of paroles being granted to Malcolm R. Arnold and to Lester Perry.

HOUSE RESOLUTION NO. 17

(By Mr. Holt, of Lewis)

(Originating in the Select Committee to Investigate the Cost of Government in West Virginia)

[Adopted February 18, 1943.]

Providing for the issuance of a rule against Homer W. Hanna, commanding him to show cause, if any he can, why he should not be held in contempt of the House of Delegates.

WHEREAS, Under authority of House Resolution No. 8, the committee created thereby did subpoena one Homer W. Hanna, a resident of Charleston, Kanawha County, West Virginia, and at that time Director of the Department of Unemployment Compensation of the State of West Virginia, to appear before the committee raised by said resolution, and on the 16th day of February, 1943, the said Homer W. Hanna appeared before said committee and refused to answer certain questions propounded by the committee and the members thereof, as set out in the report of said committee this day made to the House of Delegates; and

WHEREAS, The questions which the said Homer W. Hanna refused to answer were material and pertinent to the purpose of the said resolution, and dealt with matters that the committee was authorized by said resolution to investigate; and

WHEREAS, Under authority and by virtue of section twenty-

six, article six of the Constitution of this State, the House of Delegates has the right to punish by imprisonment any person not a member, for disrespectful behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the discharge of their duties, and the House of Delegates has a right under and by virtue of said constitutional provision to punish the said Homer W. Hanna for contempt in refusing to answer said questions; and

WHEREAS, Section five, article one, chapter four of the code of West Virginia also gives the House of Delegates the power and authority to punish for contempt; and

WHEREAS, The defiant refusal of the said Homer W. Hanna to answer questions that were propounded to him by the said committee violates the inherent rights, privileges, honor and dignity of the House of Delegates; therefore, be it

Resolved by the House of Delegates:

That a rule be, and the same is hereby issued against the said Homer W. Hanna, requiring him to appear forthwith before the House of Delegates to show cause, if any he can, why he should not be held in contempt of the House of Delegates of West Virginia; and, be it

Further Resolved, That an attested copy of this resolution be forthwith served by the Sergeant-at-Arms of the House of Delegates upon the said Homer W. Hanna, and the same, when served upon the said Homer W. Hanna, shall be notice of the aforesaid rule to forthwith appear before the House of Delegates of the State of West Virginia, and show cause, if any he can, why he should not be held in contempt of the House of Delegates of the State of West Virginia.

HOUSE RESOLUTION NO. 21

(By Mr. Davis)

[Adopted February 25, 1943.]

Authorizing payment of mileage to a member of the House of Delegates.

WHEREAS, W. Frank Stout, a member of the House of Delegates, has certified to the Clerk that he is entitled to be paid mileage at the rate of ten cents per mile for each mile traveled in going to and returning from the seat of government as provided by section thirty-three of the Constitution of West Virginia, as follows:

Miles	Amount
324	\$32.40

Therefore; be it

Resolved by the House of Delegates:

That the Clerk be, and he is hereby, directed to draw his requisition upon the Auditor in favor of this member of the body entitled to mileage at the rate of ten cents per mile as set forth herein, payable out of the appropriation hereafter to be made for the payment of mileage.

HOUSE RESOLUTION NO. 22

(By Mr. Van Sickler)

[Adopted February 25, 1943.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the House of Delegates:

That effective Monday, March 1st, 1943, the Committee on Rules may arrange a special daily calendar as provided for by House Rule No. 70, the same to be known as the Special Calendar. After the 9th order of business shall have been passed the Special Calendar shall be called, and until this calendar is disposed of, nothing on the regular House Calendar shall be considered or take precedence over said Special Calendar: *Provided*, That the Special Calendar shall not interfere with the consideration of the Local Calendar on Friday of each week.

No bill or resolution shall be placed upon the Special Calendar except by the Committee on Rules. In making up this calendar the Committee on Rules may hear any member in

behalf of any resolution or bill which he may desire placed upon such calendar, and the committee shall give due consideration to the merits of bills and resolutions pending in the House of Delegates and take cognizance of measures which affect the interests of the people as a whole.

HOUSE RESOLUTION NO. 23

(By Mr. Hudson)

[Adopted February 26, 1943.]

Expressing appreciation and approval by the House of Delegates of the forty-sixth session of the Legislature of West Virginia, to the West Virginia Sports Writers' Association, and Carl V. "Duke" Ridgely, President of the Sports Writers' Association, for the drive being conducted against infantile paralysis, and expressing appreciation for the splendid and exemplary effort and conduct of the Gentleman from Kanawha, Mr. Knight, for his superb leadership in connection with the recent scrap drive.

WHEREAS, It has come to our attention that the West Virginia Sports Writers' Association, and Carl V. "Duke" Ridgely, have been untiring in their efforts to raise funds to fight the ever present enemy of mankind, infantile paralysis; and

WHEREAS, We, the members of the House of Delegates of the Forty-sixth Legislature of West Virginia, are not unmindful of the high purpose motivating the members of said association in their efficient and merciful endeavor to alleviate pain and suffering in this war weary world; and

WHEREAS, We desire to express our appreciation to each and every sports writer in the State of West Virginia, and more particularly to the energetic Carl V. "Duke" Ridgely, President of the Sports Writers' Association of West Virginia, for their efforts in this drive; and

WHEREAS, Honorable Frank Knight, a Delegate from the County of Kanawha, has also distinguished himself by reason of his unflinching and untiring efforts in connection with the

highly successful scrap drive sponsored by the press; therefore, be it

Resolved by the House of Delegates:

That we extend our good wishes to the West Virginia Sports Writers' Association and to Carl V. "Duke" Ridgely, its President, and wish them the attainment of the highest goal possible; and, be it

Further Resolved, That the Clerk of the House of Delegates be authorized to communicate the action of the House of Delegates to R. J. Wilkinson, Jr., Secretary-Treasurer of the West Virginia Sports Writers' Association, and to Carl V. "Duke" Ridgely, President of the Association; and, be it

Further Resolved, That our good wishes and everlasting gratitude be extended to Honorable Frank Knight, of which he too shall be advised by the Clerk as hereinbefore provided.

HOUSE RESOLUTION NO. 24

(By Mr. Knight)

[Adopted March 1, 1943.]

Providing for payment to George D. Moore for services rendered the House of Delegates in the session of one thousand nine hundred forty-one.

WHEREAS, George D. Moore, a former member of the House, was authorized and employed by the Chairman of the Finance Committee of this House to render services during the last thirty days of the session of one thousand nine hundred forty-one, at the sum of ten dollars per day; and

WHEREAS, During said period the said George D. Moore also acted as the clerk of the Insurance Committee of this House during the last thirty days of the one thousand nine hundred forty-one session; and

WHEREAS, The services above mentioned were rendered the Chairman of the Finance Committee with the knowledge and approval of the Speaker of the House; and

WHEREAS, It appears that the said George D. Moore was not compensated in any manner for his said services; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized and directed to draw his requisition upon the Auditor in the sum of three hundred dollars in favor of said George D. Moore, payable from the contingent fund of the House of Delegates, in advance of the appropriation for any such purposes.

HOUSE RESOLUTION NO. 25

(By Mr. Knight)

[Adopted March 3, 1943.]

Deploring the existence of a "black market" in the sale and exchange of meats and canned goods in this state.

WHEREAS, The federal government has adopted a policy of price ceilings and rationing of meats and canned goods in furtherance of the war effort, and it has been called to the attention of the Legislature that persons whose names are unknown to the members of the Legislature are trading and trafficking in such meats and canned goods in violation of the federal laws; therefore, be it

Resolved by the House of Delegates:

That the Governor of this State be authorized and directed to appoint a commission, the members of which to serve without pay, to hear complaints, cooperate with the various law enforcement agencies of the State and in the counties thereof, and make report to the Department of Justice of the United States government, and take such other action as may be necessary or proper to put into effect an orderly and lawful system for cooperation with the federal government in the furtherance of the war effort relating to the distribution of meats and canned goods under the rationing system.

HOUSE RESOLUTION NO. 26

(By Mr. Moler)

[Adopted March 4, 1943.]

Requesting the State Auditor to furnish the Legislature his report for the fiscal year beginning July 1, 1941.

WHEREAS, His Excellency, the Governor, has handed to this House from time to time the annual and biennial reports of various state officers and departments; and

WHEREAS, No such report has been received from the State Auditor, either direct or through the executive offices; and

WHEREAS, Section seven, article four, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, provides that, "The annual report of the auditor shall be furnished to the governor within one week after the end of the fiscal year"; and

WHEREAS, More than eight months have elapsed since the close of the fiscal year, and the Auditor's report does not seem yet to be available; therefore, be it

Resolved by the House of Delegates:

That the State Auditor be, and he is hereby, requested to furnish this Forty-sixth Legislature with copies of his annual report for the fiscal year beginning July 1, 1941, and closing June 30, 1942.

HOUSE RESOLUTION NO. 27

(By Mr. Slater)

[Adopted March 5, 1943.]

Authorizing payment of expenses of the House Committee on the Penitentiary.

WHEREAS, The House Committee on the Penitentiary has visited both the Penitentiary and the Medium Security Prison during this session of the Legislature and incurred certain expenses in connection with said visit; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation, in favor of the Chairman of the Committee on the Penitentiary in the amount of three hundred fifty-two dollars and one cent, to reimburse him for funds expended in the visiting and inspection of the State Penitentiary and the West Virginia Medium Security Prison by the House Committee on the Penitentiary.

HOUSE RESOLUTION NO. 28

(By Mr. Moler)

[Adopted March 9, 1943.]

Extending the appreciation of the House to the Chairman of the Committee on Taxation and Finance.

Resolved by the House of Delegates:

That the appreciation of the members of the House of Delegates is hereby extended to the Chairman of the Committee on Taxation and Finance (Mr. Hansbarger) for the courteous, efficient manner in which this very important committee has functioned during this session of the Legislature.

HOUSE RESOLUTION NO. 29

(By Mr. Ansel)

[Adopted March 11, 1943.]

Authorizing payment of expense accounts for visits to Weston State Hospital and Hopemont Sanitarium.

WHEREAS, The subcommittee from the House Committee on Humane Institutions and Public Buildings has visited the Weston State Hospital; and

WHEREAS, The subcommittee from the House Committee on Humane Institutions and Public Buildings has visited Hopemont Sanitarium; and

WHEREAS, Both committees, carrying out their legislative missions this session of the Legislature, did incur certain expenses in connection therewith; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation, in favor of Delegate J. W. Hartigan, for thirty-nine dollars and eighty-six cents, said sum covering expenses incurred by said delegate on his official visit to Weston State Hospital; and

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation, in favor of Delegate W. T. Blankenship, for twenty-eight dollars and twenty-three cents, said sum covering expenses incurred by said delegate on his official visit to Hope-mont Sanitarium.

HOUSE RESOLUTION NO. 30

(By Mr. Holt, of Lewis)

(Originating in the Select Committee to Investigate the
Cost of Government in West Virginia)

[Adopted March 11, 1943.]

Extending the committee to make an investigation of the cost of state government in West Virginia for the purpose of making and printing a final report.

Resolved by the House of Delegates:

That the special committee created under House Resolution No. 8 is hereby granted authority to complete its final report within six months after the *sine die* adjournment of this session of the Legislature.

The Clerk of the House of Delegates, on the approval of the Chairman of said committee, shall draw his requisitions on the Auditor, payable out of the special appropriation made for the said committee. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by signed approval of said expenses, signed by the Chairman of said committee or by any other person authorized to do so by the committee. The Auditor is authorized to draw his warrants upon the treasury for the expenses of said committee, and said expenses shall not exceed the sum of two thousand five hundred dollars.

HOUSE RESOLUTION NO. 31

(By Mr. Speaker, Mr. Amos)

[Adopted March 12, 1943.]

Designating the Honorable Charles R. Beard official Chaplain, and extending to him the thanks and appreciation of the House of Delegates for his services during this session.

WHEREAS, The Honorable Charles R. Beard, the Delegate from the County of Berkeley, has served as Chaplain during this session of the House without compensation or cost to the State; and

WHEREAS, The Reverend Beard has ably and efficiently discharged his duties as Chaplain; and

WHEREAS, His daily prayers have been inspiring and uplifting to the membership of this body; therefore, be it

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby, authorized to officially designate the Reverend Beard as official Chaplain, and that the gratitude and appreciation of the House of Delegates are hereby extended to the Reverend Beard for his capable and worthy services during this session.

HOUSE RESOLUTION NO. 32

(By Mr. Van Sickler)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Authorizing the printing and distribution of the Acts of this session of the Legislature, providing for the printing of corrected Journals and Bills, and for the completion of the other work of the session.

Resolved by the House of Delegates:

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby directed to have printed by the public printer four thousand advance copies of the Acts of this session of the Legislature, headnoted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, circuit, criminal and intermediate courts, and county officials.

The public printer shall print and deliver said advance copies as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express ten of said copies to each member of the State Senate, and the Clerk of the House of Delegates shall forward by mail or express ten copies of said Acts to each member of the House of Delegates as soon as the same are printed and available for distribution. The Clerk of the House of Delegates shall also furnish one copy to each of the state officials, judges of the Supreme Court of Appeals, circuit, criminal, common pleas and intermediate courts of this state, and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office; the remainder, if any, shall be delivered to the superintendent of public printing for distribution by him. When the bound volumes of the Acts are completed, one copy of same shall be mailed to each member of the Legislature.

The Clerk of the House is also authorized and directed to have printed in signature form for advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

For the work required in printing and distributing advance copies of the Acts, and for the proofreading, indexing and printing the bound volumes of the Acts of this session of the Legislature, and for the purpose of completing the other work of this session in arranging and filing of all Bills, Resolutions and other official papers in the Clerk's office, and for indexing and proofreading of the corrected Journals and Bills of the House of Delegates, and printing thereof, the time of the following assistants to the Clerk, and other employees and attaches of the House of Delegates, is extended for the time herein set out, at the same per diem as paid during this regular session of the Legislature; to-wit:

One assistant Clerk, a Journal Clerk, a Journal stenographer, a supervisor of printing, and a stenographer is extended for one hundred eighty days; one assistant Clerk, two proofreaders and four file clerks is extended for ninety days; the secretary to the minority is extended for sixty days, and the clerk to the minority is extended for thirty days; the time of the clerk and stenographer to the Committee on the Judiciary is extended for ten days; the time of the clerk and stenographer to the Committee on Taxation and Finance is extended for ten days; the time of the clerk to the Committee on Enrolled Bills is extended for ten days; the time of one mailing clerk and one assistant mailing clerk is extended for ten days; the time of the supervisor of stenographers and one stenographer is extended for ten days; the time of a custodian of offices and property is extended for fifteen days; the time of one payroll and supply clerk is extended for fifteen days; the time of the stenographer to the Clerk is extended for fifteen days; and the time of eight janitors is extended for five days; and, be it

Further Resolved, That the time of the secretary to the Speaker is extended for one hundred eighty days; the time of the stenographer to the Speaker is extended for sixty days; and

the time of the messenger to the Speaker is extended for thirty days; and, be it

Further Resolved, That the Speaker is hereby authorized to employ a full-time janitor for the House of Delegates at a salary not to exceed one hundred twenty-five dollars per month, said salary to be payable from the contingent fund of the House of Delegates upon requisitions of the Clerk of the House of Delegates; and, be it

Further Resolved, That for the purpose of arranging the offices and committee rooms and performing the other duties of his office, the time of the Sergeant-at-Arms is extended for ten days, and the time of one clerk to the Sergeant-at-Arms is extended for ten days.

The Clerk shall draw his requisitions upon the Auditor in favor of the persons entitled to per diem under this resolution, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such requisitions when presented and charge same to the contingent fund of the House of Delegates.

The Speaker shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place or to fill any vacancy that may occur.

The Clerk shall have printed not more than six hundred copies each of the corrected House Journals and House Bills. Of this number, one copy of each shall be mailed to each member of the Legislature, and after retaining a sufficient number of copies to supply the offices in the House of Delegates, the remainder shall be turned over to the supervisor of public printing.

To pay postage or expressage on Acts, Journals and Bills, and other matter to be mailed by the House of Delegates, the Clerk is hereby authorized to draw his requisitions upon the Auditor, payable from the contingent fund of the House of Delegates, for such purposes.

HOUSE RESOLUTION NO. 33

(By Mr. Miller, of Raleigh)

[Adopted March 13, 1943.]

Expressing the devotion and appreciation of the House of Delegates for those in the armed services and those on the home front who are working so diligently and earnestly for victory in this, the greatest of all wars.

WHEREAS, We, the members of the West Virginia House of Delegates, wish to pay tribute, individually and collectively, to all the fighting sons and daughters of freedom in all the world-wide battlefronts; to those who gave their lives in the jungles of Guadalcanal, on the sands of North Africa, on the blue waters of the Atlantic and Pacific, and the dauntless airmen in our bombers and fighters; to those untold numbers who will yet give their lives that this nation may enjoy freedom, our most cherished possession; to the tens of thousands in training centers over the length and breadth of our land who are preparing for anything and everything the Axis powers have to offer on the land, on the sea and in the air; and

WHEREAS, We express our appreciation and gratitude to those on the home front who are earnestly and diligently working to turn out the implements of war, the food and the commodities necessary to win the war and the peace that follows; that all may have courage for the greater battles to be fought and won; that teamwork and cooperation in American industry, labor and agriculture are performing miracles of production that would be impossible in a country weakened by years of regimentation and dictatorship; and

WHEREAS, The American boys are fighting for the inherent right of all of us, wherever we live, or whatever we do, to live our lives the way we want to live them, and when those boys come home, may they find again the basic rights and freedoms on which this country was built; therefore, be it

Resolved by the House of Delegates:

That we, the members of the House of Delegates, on the closing day of the Forty-sixth session, are ever mindful of all who are contributing to the fighting men all over the world,

and to a final victory in the present world conflict in order that all people in the world will be free to live, love and worship in peace.

HOUSE RESOLUTION NO. 34

(By Mr. Davis)

[Adopted March 13, 1943.]

Providing for the purchase of supplies, and the repair and improvement of House offices and furniture prior to the opening of another session of the Legislature.

Resolved by the House of Delegates:

That the Clerk, with the approval of the Speaker, is hereby authorized to purchase all necessary supplies, and to make such repairs and improvements of House offices and furniture as may be deemed necessary prior to the opening of the next session of the Legislature.

HOUSE RESOLUTION NO. 35

(By Mr. Van Sickler)

[Adopted March 13, 1943.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die*.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Fleming)

[Adopted February 1, 1943.]

Concerning gasoline rationing.

WHEREAS, West Virginia alone of the thirty-two states west of the Atlantic seaboard has been selected by the Petroleum Administrator for War for inclusion with eastern seaboard

states for subnormal rationing of gasoline because of a shortage of petroleum and gasoline in sixteen states of the eastern seaboard; and

WHEREAS, West Virginia is the only state included with said eastern seaboard group which does not even touch the seaboard and approximately ninety-five per cent of whose population and economy is situated west of the Appalachian mountains and is a part of the Ohio river valley; and

WHEREAS, Official monthly returns of gasoline producers and distributors of the state to the office of the West Virginia State Tax Commissioner for the first eleven months of the year one thousand nine hundred forty-two, when there was no gasoline rationing in effect in West Virginia, except in the eight counties east of the Allegheny mountains, and thirty-one other states west of the Atlantic seaboard, disclose that West Virginia produced more gasoline than it consumed and exported 84,000,000 gallons, principally to the West, an excess of more than 8,000,000 gallons over its imports from the West; and

WHEREAS, The entire gallonage normally imported into the state comes from the West, of which approximately seventy-five per cent is shipped by barge over water routes involving no use of vitally needed rail and tank car transportation; and

WHEREAS, Forty-seven of West Virginia's fifty-five counties do not, and have not for years, drawn their gasoline supplies from the seaboard, relying always upon the state's own production, plus imports from the West offset by exports to the West; and

WHEREAS, Said official statistics in the office of the State Tax Commissioner disclose no shortage of gasoline or petroleum supplies in West Virginia to any greater or less degree than in the remaining thirty-one states west of the seaboard, and to a much lesser degree than in most of them, which consume substantially more gasoline than they produce; and

WHEREAS, No such shortage of gasoline as found to exist on the seaboard actually exists in West Virginia; and

WHEREAS, Subnormal gasoline rationing, for the benefit of the eastern seaboard, has not been imposed upon any of the

states west of the Atlantic seaboard, except West Virginia, notwithstanding that other states so located to the west are much larger consumers and are areas in which subnormal rationing would yield a greater surplus for seaboard relief than West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That such inclusion of West Virginia for subnormal rationing with the eastern seaboard states constitutes a discrimination against the State and its people which is unessential to the war effort; and

That in requesting this relief the Legislature and the people of West Virginia are not protesting against any degree of rationing essential or helpful to the war effort, but solely against what they believe to be an inadvertent but serious discrimination against the State because it happens to be the only state west of the Atlantic seaboard in District One of the Petroleum Administrator for War, which includes otherwise the Atlantic seaboard states; and

That the President of the United States, the Governor of West Virginia, the Representatives of West Virginia in the national Congress, the Petroleum Administrator for War, and the Administrator of the Office of Price Administration be furnished copies of this resolution and that the Governor of West Virginia and the state's representatives in the national Congress be requested to press vigorously for the relief herein prayed.

SENATE CONCURRENT RESOLUTION NO. 5

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, The West Virginia Legislature, in regular session, has enacted numerous laws of great moment and importance to the citizens of the State; and

WHEREAS, It is necessary that the citizenry receive accurate and comprehensive information of the acts of the Legislature; and

WHEREAS, The members of the press galleries of both Houses have been in constant attendance at all sessions, preparing information on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature commends the members of the press for their untiring efforts to disseminate all proceedings of this body, their courteous and wholehearted cooperation with officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

SENATE RESOLUTION NO. 1

(By Mr. Vickers)

[Adopted January 13, 1943.]

Raising a committee to notify the House that the Senate is organized.

Resolved by the Senate:

That the President of the Senate is authorized to appoint a committee of three to inform the House of Delegates that the Senate is organized by the election of the Honorable James Paull as President and Mr. A. Hale Watkins as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 2

(By Mr. Pelter)

[Adopted January 13, 1943.]

Providing for the appointment of a committee to inform the Governor that the Legislature is organized.

Resolved by the Senate:

That the President of the Senate be and he is hereby authorized to appoint a committee of three to join with a similar committee from the House of Delegates, to wait upon the Governor and inform him that the Legislature has assembled in regular session, has organized by the election of officers as required by the Constitution, and is ready, with a quorum of each house present, to proceed with the business of the session and receive any communication or message he may desire to present.

SENATE RESOLUTION NO. 3

(By Mr. Williams)

[Adopted January 13, 1943.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-one, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 4

(By Mr. McKown)

[Adopted January 13, 1943.]

Relating to the mailing of Journals and Bills.

Resolved by the Senate:

That the Clerk of the Senate is authorized to mail from the Senate document room, copies of the bills and daily Journals to not more than twenty addresses to be furnished to the Clerk by each member of the Senate, the expense of the mailing, including postage, to be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, upon proper requisition drawn by the Clerk.

SENATE RESOLUTION NO. 5

(By Mr. Harmer)

[Adopted January 13, 1943.]

Concerning leave of absence for Senator George W. Jackson.

WHEREAS, The Honorable George W. Jackson, a member of the Senate from the Thirteenth District, will be prevented from attending any of the meetings of the Senate during this session, by reason of his services abroad in the armed forces of our country; therefore, be it

Resolved by the Senate:

That Senator Jackson be granted an indefinite leave of absence for this session.

SENATE RESOLUTION NO. 6

(By Mr. Young)

[Adopted January 19, 1943.]

Relating to legislative expenses.

WHEREAS, Economy in governmental expenditures is always desirable and should be exercised. We are now burdened by an ever increasing load of taxation, both federal and state, but that portion which has been or is to be used to prosecute the present war to a complete and decisive victory will be patriotically and cheerfully assumed by the taxpayers. However, at this time there is an insistent, growing and justifiable demand that the expenses of the state government, including the Legislature, be held to the minimum consistent with a fair but rigidly economical administration of all the essential functions of the State; therefore, be it

Resolved by the Senate:

That it is the considered opinion of this body that the expenses of the Senate for supplies, services, attaches, printing and all other form of expense should be materially reduced from the amounts expended in previous sessions, and particu-

larly that the number of attaches should be reduced to the lowest number absolutely necessary to carry on the work of the Senate efficiently, and that appointments should be based upon the needs of the Senate for services and should not be made for the purpose of paying political debts or conferring favors.

SENATE RESOLUTION NO. 7

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 21, 1943.]

Relating to the payment of expenses for services preparatory to and at the beginning of the session.

Resolved by the Senate:

That the Auditor, upon proper requisition of the Clerk of the Senate and in advance of the appropriation for the purpose, is authorized to pay the following amounts for services rendered preparatory to and at the beginning of this session of the Senate:

A. Hale Watkins, Clerk, 10 days at \$20.00.....	\$200.00
J. T. Garrett, Doorkeeper, 10 days at \$10.00.....	100.00
M. L. Jackson, Supervisor of Printing, 10 days at \$12.00	120.00
M. S. Hodges, Journal Editor, 10 days at \$15.00.....	150.00
Fern Runion, Secretary to Journal Editor, 10 days at \$12.00	120.00

SENATE RESOLUTION NO. 8

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 21, 1943.]

Authorizing the appointment of attaches for the Senate for the one thousand nine hundred forty-three regular session of the Legislature.

Resolved by the Senate:

That the Clerk of the Senate be, and he is hereby authorized to appoint attaches and other employees to receive the per diem as herein provided during this session of the Legislature, viz:

- Four mimeograph operators, at \$8.00 per day, each;
- One mail clerk, at \$8.00 per day;
- One stenographer to the Finance Committee, at \$8.00 per day;
- One stenographer to the Judiciary Committee, at \$8.00 per day;
- One assistant to the Sergeant-at-Arms, at \$8.00 per day;
- One assistant journal room supervisor, at \$9.00 per day;
- Two committee clerks-at-large, at \$9.00 per day, each;
- Four committee clerks, at \$8.00 per day, each;
- One clerk on Enrolled Bills, at \$9.00 per day;
- Three assistant Sergeants-at-Arms, at \$7.00 per day, each;
- Four assistant doorkeepers, at \$7.00 per day, each;
- Four journal room clerks, at \$7.00 per day, each;
- One receptionist to the President, at \$7.00 per day;
- Four floor stenographers, at \$7.00 per day, each;
- One secretary to the Minority, at \$15.00 per day;
- One journal stenographer, at \$12.00 per day;
- One bill editor, at \$10.00 per day;
- One supervisor of stenographers, at \$10.00 per day;
- One secretary to the Clerk, at \$12.00 per day;
- One secretary to the President, at \$12.00 per day;
- One clerk to the Minority, at \$10.00 per day;
- One printing clerk, at \$12.00 per day;
- Two proofreaders, at \$8.00 per day, each;

Two copyholders, at \$8.00 per day, each;
One journal room supervisor, at \$10.00 per day;
One chaplain, at \$5.00 per day;
One clerk to the Finance Committee, at \$12.00 per day;
One clerk to the Judiciary Committee, at \$12.00 per day;
One messenger for clerk's office, at \$7.00 per day;
Six clerk-stenographers, at \$8.00 per day, each; and, be it

Further Resolved, That the Clerk of the Senate is authorized to appoint a Court reporter, at \$12.00 per day for each day the Senate is in session; and, be it

Further Resolved, That the Sergeant-at-Arms shall receive \$10.00 per day; the Doorkeeper \$10.00 per day, and the Clerk \$20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The Clerk shall assign duties to the said employees and require them to perform the duties assigned to them, and he is authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 9

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 21, 1943.]

Authorizing the appointment of pages.

Resolved by the Senate:

That the Clerk of the Senate is authorized to appoint two pages to serve in the Senate from the date of the opening of this session of the Legislature, at a per diem of four dollars each.

The Clerk shall draw his warrants upon the Auditor in favor of the attaches herein appointed at the per diem set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The Clerk shall require said employees to perform the duties assigned to them, and he is authorized and directed to remove either of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 10

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 21, 1943.]

Relating to the appointment of assistant janitors.

WHEREAS, Howard N. Martin, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter five of the code, has designated ten assistants for the janitor work of the Senate for this session; therefore, be it

Resolved by the Senate:

That the per diem of one of said assistant janitors is fixed at six dollars, the per diem of the remaining nine assistant janitors at five dollars, and that of the said Howard N. Martin, is fixed at two dollars, as the Senate's one-half of his per diem.

SENATE RESOLUTION NO. 11

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 27, 1943.]

Amending rules of the Senate.

Resolved by the Senate:

That rule twenty-four, rule twenty-five, rule thirty-nine and rule fifty-three of the Rules of the Senate for this session be amended to read as follows:

Rule 24. At the commencement of each session the following standing committees shall be appointed, to consist of not less than five nor more than nine members, except the Committee on Interstate Cooperation, which shall consist of five members; the Committees on Education, on Forestry and Conservation, and on Public Buildings and Humane Institutions, which shall each consist of not less than eleven and not more than fifteen members; the Committee on Roads and Navigation, which shall consist of seventeen members; and the Committees on Judiciary and on Finance, which shall each consist of eighteen members:

- I. On Privileges and Elections.
- II. On the Judiciary.
- III. On Finance.
- IV. On Education.
- V. On Counties and Municipal Corporations.
- VI. On Roads and Navigation.
- VII. On Banks and Corporations.
- VIII. On Public Buildings and Humane Institutions.
- IX. On the Penitentiary.
- X. On Railroads.
- XI. On Militia.
- XII. On Federal Relations.
- XIII. On Insurance.
- XIV. On Agriculture.
- XV. On Mines and Mining.
- XVI. On Medicine and Sanitation.
- XVII. On Labor.
- XVIII. On Claims and Grievances.
- XIX. On Forfeited, Delinquent and Unappropriated Lands.

- XX. On Public Printing.
- XXI. On Rules (the President of the Senate to be ex officio Chairman.)
- XXII. On Joint Rules (to be composed of the President of the Senate as ex officio Chairman, and two members of the Senate to be appointed by the President.)
- XXIII. Joint Committee on Enrolled Bills on the part of the Senate (to consist of five members.)
- XXIV. On Public Library.
- XXV. To Examine Clerk's Office (to consist of three members.)
- XXVI. On Temperance.
- XXVII. On Forestry and Conservation.
- XXVIII. On Redistricting.
- XXIX. On Interstate Cooperation.

Rule 25. All standing committees shall be appointed by the President of the Senate, unless otherwise ordered by the Senate, and he shall designate the Chairman of each Committee and may also designate a Vice Chairman of any standing committee when he may deem it advisable.

The chairman of each standing committee of the Senate shall cause to be kept for the purpose, a record of every meeting of such committee, wherein shall be entered:

- (a) The time and place of each committee meeting, and every hearing had before the committee.
- (b) The attendance of members of the committee at each meeting thereof.
- (c) The name of any person appearing before the committee, and the interest represented by him.

Any member of such standing committee may cause a notation to be made upon the record aforesaid of the reason for his absence at any former meeting of the committee; and

in the absence of any such explanatory note, the presumption shall be that his absence was without reasonable cause.

All meetings of the committees, other than executive sessions, shall be open to the public.

On the adjournment of each session of the Legislature, the chairman of the respective committees shall deliver to the Clerk of the Senate the record book herein provided for, and it shall be the duty of such Clerk to preserve the same among the archives of his office.

Rule 39. All bills passed by and reported from the House of Delegates shall be read by their titles and referred to the appropriate committees unless the Senate otherwise directs. They shall then be proceeded with in the same manner as Senate bills are. All bills introduced on leave shall be read by their titles and referred to the appropriate committee without printing, and shall be treated in committee as resolutions of inquiry, and if the committee reports a bill different from the one introduced such bill shall be received and treated by the Senate as the original bill, and shall be read a first time and printed, unless in any of the aforesaid cases the Senate shall direct otherwise.

Rule 53. When the yeas and nays are ordered, or a call of the Senate is directed, the names of the members shall be called in alphabetical order, excepting, however, the name of the President, which shall be called last.

SENATE RESOLUTION NO. 12

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 27, 1943.]

Amending rules of the Senate.

Resolved by the Senate:

That the rules of the Senate heretofore adopted for this session be amended by adding a new rule, to be rule thirty-three, and to read as follows:

Rule 33. Each bill shall be prepared in triplicate, signed by the member or members (not to exceed two) by whom it is to be introduced and be filed with the Clerk not later than two o'clock P. M. of the legislative day next preceding its introduction. The original copy shall be the official bill for the use of the Clerk, committees and for the permanent files; the second for printing or copying; and the third for the use of the press and the public.

Each bill shall be numbered, edited and corrected as to form by the Clerk and reported by him to the Senate on the next legislative day, under the fifth order of business. In case of urgency, on motion for leave agreed to by a majority of the members present, if a quorum, a member may introduce a bill from the floor.

And,

That the rules of the Senate heretofore numbered thirty-three to sixty-seven, inclusive, be renumbered thirty-four to sixty-eight, inclusive.

SENATE RESOLUTION NO. 13

(By Mr. Burchett and Mr. Mitchell)

[Adopted February 22, 1943.]

Concerning the illness of the Honorable John H. Greene.

Resolved by the Senate:

That the Senate, having just heard of the sudden illness of the Honorable John H. Greene, a former member of this body and President Pro Tempore during the Forty-fifth Session, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and, be it

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to the Honorable John H. Greene.

SENATE RESOLUTION NO. 14

(By Mr. Johnston)

[Adopted February 24, 1943.]

Concerning the illness of the Honorable A. Hale Watkins.

Resolved by the Senate:

That the Senate, having heard of the illness of the Honorable A. Hale Watkins, Clerk of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and, be it

Further Resolved, That a copy of this resolution, together with a floral tribute, be sent to the Honorable A. Hale Watkins.

SENATE RESOLUTION NO. 15

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 27, 1943.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the Senate:

That from and after the twenty-seventh day of February, one thousand nine hundred forty-three, and for each legislative day until the end of the regular session of the Legislature, the Committee on Rules is hereby authorized to arrange a "special calendar" and, until the business on such special calendar is disposed of each day, no item on the regular calendar shall be considered or take precedence over any item on said special calendar, subject to the provisions of Senate Rule number sixty-eight.

SENATE RESOLUTION NO. 16

(By Mr. Morrison)

[Adopted February 27, 1943.]

Concerning the illness of the Minority Leader, the Honorable G. O. Young.

Resolved by the Senate:

That the Senate, being advised of the illness of the Honorable G. O. Young, Minority Leader of this body, extends to him its deepest regret and sincerest sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and, be it

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a suitable floral tribute, to Senator Young.

SENATE RESOLUTION NO. 18

(By Mr. Young)

[Adopted March 3, 1943.]

Concerning the illness of the Honorable A. L. Helmick.

Resolved by the Senate:

That the Senate, being advised of the illness of the Honorable A. L. Helmick, a member of this body, extends to him its deepest regret and sincerest sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and, be it

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a suitable floral tribute, to Senator Helmick.

SENATE RESOLUTION NO. 19

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 11, 1943.]

Relating to the privileges of the floor.

Resolved by the Senate:

That from and after this date and until the close of the regular session of the Legislature, no person shall be allowed the privilege of the Senate floor while the Senate is in session, except members of the House of Delegates and members of the Senate, officers and attaches of the House and Senate staffs, accredited members of the press, the Governor, and the Governor's private secretary.

SENATE RESOLUTION NO. 20

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Concerning the absence from the Senate of the Honorable Abraham Lincoln Helmick.

WHEREAS, It has come to the attention of the Senate that the Honorable Abraham Lincoln Helmick, because of illness, is confined to the Union Protestant Hospital in Clarksburg; and

WHEREAS, This body desires to express to him its deep feeling of regret that this session of the Legislature must close without the presence in this chamber of "Uncle Abe", as he is so often affectionately referred to by us; and

WHEREAS, We desire to recognize the long, faithful and devoted service which he has rendered to his senatorial district and to the State of West Virginia, during the twenty-three consecutive years in which he has been a member of this body; and

WHEREAS, We further desire that he be informed of our love and affection and the high esteem in which he is held by the members of this body; therefore, be it

Resolved by the Senate:

That, in recognition of the long, faithful and devoted service of the Senator from Tucker, not only to his constituents of the old Fourteenth Senatorial District and the present Fifteenth Senatorial District, but to the State of West Virginia, as well, this body formally expresses its regret at his absence from his Senate desk during many of the trying days of this session and at the loss of his invaluable counsel, his friendly smile, his warm handclasp, and his example of patience and devotion; that we deplore the illness which has robbed us of his presence in the Senate chamber; and that we wish for him speedy and complete recovery; and, be it

Further Resolved, That, as a symbol of our love and affection for our colleague, and as evidence of the esteem in which he is held by each member of this body, the original copy of this resolution be delivered to Senator Helmick by the Senator from Harrison, the Honorable Hardin R. Harmer.

SENATE RESOLUTION NO. 21

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Printing of the Journal and completing the work of the session.

Resolved by the Senate:

That, in order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to

allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the document and mailing rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk at twenty dollars is hereby extended for one hundred and eighty days.

The Clerk of the Senate is hereby authorized to employ the following assistants for the number of days and at the per diem hereinafter set forth: One clerk to the Finance Committee at twelve dollars per diem for ten days; one clerk to the Judiciary Committee at twelve dollars per diem for ten days; one stenographer to the Finance Committee at eight dollars per diem for ten days; one stenographer to the Judiciary Committee at eight dollars per diem for five days; one clerk on enrolled bills at nine dollars per diem for ten days; one journal room supervisor at ten dollars per diem for thirty days; four journal room clerks at eight dollars per diem for ten days each; one secretary to the clerk at twelve dollars per diem for one hundred and eighty days; one journal stenographer at ten dollars per diem for ninety days; one journal clerk at twelve dollars per diem for one hundred and eighty days; one journal editor at fifteen dollars per diem for one hundred and eighty days; one senior stenographer at ten dollars per diem for fifteen days; one printing clerk at twelve dollars per diem for one hundred and eighty days; two proofreaders at eight dollars per diem for one hundred and fifty days each; two copyholders at eight dollars per diem for ninety days each; one secretary to the Minority at ten dollars per diem for ninety days; one supervisor of supplies at eight dollars per diem for thirty days; one court reporter at twelve dollars per diem for thirty days; one secretary to the president at twelve dollars per diem for ninety days; one supervisor of janitors at six dollars per diem for sixty days; two assistant janitors at five dollars per diem for thirty days each; one assistant janitor at five dollars per diem for sixty days; one assistant janitor at five dollars per diem for ten days; and one messenger at five dollars per diem for ten days.

SENATE RESOLUTION NO. 22

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 13, 1943.]

Notifying the House of Delegates that the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That a committee of three be appointed by the President to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

DISPOSITION OF BILLS ENACTED

The following table shows the disposition of Senate and House Bills passed at the regular session of the 1943 Legislature. The first column gives the bill number and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

HOUSE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
1	61	157	23	260	91
2	96	169	38	265	110
12	81	173	6	273	13
27	22	182	93	278	76
28	78	191	24	287	31
30	35	198	109	289	14
33	114	199	107	308	104
39	51	205	10	317	116
41	5	208	102	321	73
43	27	210	58	322	108
46	87	211	100	326	105
48	56	213	89	327	84
49	57	215	68	332	55
75	113	230	65	345	21
81	34	232	28	353	44
89	30	236	50	354	83
99	77	237	32	358	45
105	106	243	29	371	49
108	81	244	59	378	41
112	97	252	101	379	88
120	8	256	43	380	85
129	111	257	46		
144	115	259	66		

SENATE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
19	33	98	112	180	3
21	1	103	47	185	42
22	52	107	99	190	72
28	11	111	40	191	70
30	60	113	74	192	71
36	64	117	80	193	19
51	18	127	79	195	39
59	75	130	9	198	15
64	37	131	7	199	16
66	25	141	53	202	103
67	92	142	54	211	98
68	94	147	26	213	48
77	62	157	63	219	2
78	4	161	17	223	86
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1933	1st Ex.	36	11	11	(Payment and collec- tion of inheritance taxes) _____ 322
1933	1st Ex.	40	4	20	(Bonds of highway contractors) _____ 78
1933	1st Ex.	46	1	21	(Compensation of petit jurors) _____ 207
1935	Reg.	4	6	7	(Violations of liquor control act—form of indictment) _____ 275
1935	Reg.	68			(Municipal flood wall board) _____ 103
1935	Reg.	72	2-a		(State board of aeronautics) _____ 108
1935	Reg.	86	13	2-i	(Tax on business of collecting rentals, royalties, etc.) _____ 342
1935	Reg.	99	2	20	(Premiums on official bonds) _____ 87
1936	2nd Ex.	1			(Unemployment com- pensation) _____ 251

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1937	Reg.	55			(Municipal flood wall board)	103
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